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THESIS

MIXED SIGNALS:
THE IMPACT OF INTERNATIONAL ADMINISTRATION ON KOSOVO'S INDEPENDENCE

by

James M. Trachier

December 2010

Thesis Co-Advisors: Zachary S. Shore
Kenneth R. Dombroski

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Under provisions of United Nations (UN) Security Council Resolution 1244, elements of the UN, the North Atlantic Treaty Organization (NATO), and the European Union (EU) became the *de facto* government of Kosovo following NATO's 1999 air campaign against Serbian forces suspected of committing atrocities against the province's ethnic Albanian population. On February 17, 2008, after just under a decade of international administration, Kosovo declared its independence and was recognized by the United States and other Western powers in the following days. Given the emphasis placed on respecting Yugoslavia's sovereignty and preserving its territorial integrity in numerous official texts, including Resolution 1244, why is Kosovo now recognized as an independent state by much of the world? This examines historical, institutional, and systemic explanations for Kosovo's independence. It concludes that while all three explanations have some merit, only the systemic explanation has sufficient explanatory power to stand on its own. This explanation holds that, by pursuing a "Standards before Status" approach, the international administration of Kosovo exacerbated the existing polarization between Serbs and Kosovar Albanians by failing to provide incentives for concessions. Contrary to stated goals, this approach contributed to the creation of a *de facto* independent Kosovo state.

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MIXED SIGNALS: THE IMPACT OF INTERNATIONAL ADMINISTRATION ON KOSOVO'S INDEPENDENCE

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Submitted in partial fulfillment of the
requirements for the degree of

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December 2010**

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ABSTRACT

Under provisions of United Nations (UN) Security Council Resolution 1244, elements of the UN, the North Atlantic Treaty Organization (NATO), and the European Union (EU) became the de facto government of Kosovo following NATO's 1999 air campaign against Serbian forces suspected of committing atrocities against the province's ethnic Albanian population. On February 17, 2008, after just under a decade of international administration, Kosovo declared its independence and was recognized by the United States and other Western powers in the following days. Given the emphasis placed on respecting Yugoslavia's sovereignty and preserving its territorial integrity in numerous official texts, including Resolution 1244, why is Kosovo now recognized as an independent state by much of the world? This examines historical, institutional, and systemic explanations for Kosovo's independence. It concludes that while all three explanations have some merit, only the systemic explanation has sufficient explanatory power to stand on its own. This explanation holds that, by pursuing a "Standards before Status" approach, the international administration of Kosovo exacerbated the existing polarization between Serbs and Kosovar Albanians by failing to provide incentives for concessions. Contrary to stated goals, this approach contributed to the creation of a de facto independent Kosovo state.

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LIST OF ACRONYMS AND ABBREVIATIONS

CIVPOL	Civilian Police
EU	European Union
HRW	Human Rights Watch
ICG	International Crisis Group
KFOR	Kosovo Force
KLA/ UÇK	Kosovo Liberation Army/ Ushtria Çlirimtare e Kosovës
KPS	Kosovo Protection Service
KSIP	Kosovo Standards Implementation Plan
NATO	North Atlantic Treaty Organization
OSCE	Organization for Security and Co-operation in Europe
PISG	Provisional Institutions of Self-Government
SRSG	Special Representative of the Secretary-General
UN	United Nations
UNSCR	United Nations Security Council Resolution
UNSG	United Nations Secretary-General
UNMIK	United Nations Interim Administration Mission in Kosovo

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I. INTRODUCTION

A. BACKGROUND

In the spring of 1999, the North Atlantic Treaty Organization (NATO) conducted a 78-day air campaign against Serbian targets in response to reports of atrocities committed against Kosovo's ethnic-Albanian population by Serbian forces. An agreement between the Federal Republic of Yugoslavia and the United Nations (UN) to end the air campaign led to the passage of UN Security Council Resolution 1244. This resolution contained two seemingly contradictory clauses that reflected the sharp divisions within the Security Council over NATO's unsanctioned military action and the lack of international consensus as to Kosovo's final status. The first clause stated in essence that the United Nations would not be party to the further partitioning of Yugoslavia, while the second prescribed autonomy for the Muslim, ethnic Albanian-majority province of the Yugoslav Republic of Serbia.[1]

Under the resolution, elements of the international community[2] became the *de facto* government of Kosovo. The UN Interim Administration Mission in Kosovo (UNMIK), aided by the European Union (EU) and the Organization for Security and Co-operation in Europe (OSCE), assumed initial responsibility for the administration of governmental functions.[3] NATO's Kosovo Force (KFOR) provided security services in conjunction with member candidate and non-member states.[4] UNMIK and KFOR achieved only intermittent success as they set about implementing the provisions of UNSCR 1244, and Kosovo's ethnic-Albanian and Serb populations maintained their

[1] United Nations Security Council (SC), Resolution 1244, "On the Situation Relating Kosovo," 10 June 1999, http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N99/172/89/PDF/N9917289.pdf.

[2] For the purposes of this study, the term "international community" refers to the major international institutions (e.g., UN, NATO, the EU, and the OSCE), together with their major constituent members (e.g., the United States, the United Kingdom, France, Germany, Italy, and Russia) responding to and/or having equity in the Kosovo crisis.

[3] Ibid., Annex 2, para. 5.

[4] Ibid., Annex 2., para. 3–4.

polarized, estranged relationship. Many of the former's numbers were bolstered by the return of displaced Kosovar Albanians who had fled the abuses perpetrated by the Serb security forces.[5]

After five years of administration by UNMIK and KFOR, Kosovo experienced vicious anti-Serb riots in March 2004. Sparked by now-disputed media reports that three Kosovar Albanian youths had drowned on March 16 after being chased into the Ibar River by Serb antagonists, the riots spanned 48 hours and appeared to overwhelm the response capabilities of KFOR, UNMIK's civilian police force (CIVPOL, composed of policemen from contributing nations), and the locally-sourced Kosovo Police Service (KPS.)[6] By the time the rioting ended, 19 people were dead, almost 1000 were wounded, over 4000 were displaced, and over 700 homes were damaged or destroyed.[7] Significantly, 30 Orthodox churches and monasteries were also destroyed.[8]

On February 17, 2008, after just under a decade of international administration, Kosovo declared its independence[9] and was recognized by the United States the following day.[10] Although Serbia quickly renounced the declaration,[11] a total of 72 of the 192 member states comprising the UN subsequently recognized Kosovo's independence, including 22 of the 27 member states of the EU and 24 of the 28 members of NATO.[12] Having preemptively made it clear it would never recognize an independent

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[5] Human Rights Watch, "Failure to Protect: Anti-Minority Violence in Kosovo, March 2004," *Human Rights Watch* 16, no. 6 (July 2004): 7–8, http://www.hrw.org/sites/default/files/reports/kosovo0704.pdf.

[6] Miklós Haraszti, "The Role of the Media in the March 2004 Events in Kosovo," Organization for Security and Co-operation in Europe, Office of the Representative on Freedom of the Media, 22 April 2004, 4, http://www.osce.org/item/2926.html.

[7] Human Rights Watch, "Failure to Protect," 62.

[8] Human Rights Watch, "Failure to Protect," 62.

[9] Republic of Kosovo Assembly, Resolution D-001, "Kosovo Declaration of Independence," 17 February 2008, http://www.assembly-kosova.org/?cid=2,128,1635.

[10] U.S. Department of State, "U.S. Recognizes Kosovo as Independent State," news release, 18 February 2008, http://2001-2009.state.gov/secretary/rm/2008/02/100973.htm.

[11] Republic of Serbia, Ministry of Foreign Affairs, "Declaration of Kosovo Independence–Gross Violation of Serbian Constitution, Resolution 1244, UN Charter," news release, 14 February 2008, http://www.srbija.gov.rs/vesti/vest.php?id=43141.

[12] "Who Recognized Kosova as an Independent State?" accessed 10 December 2010, http://www.kosovothanksyou.com/indexkty.php?order=a#recognitions.

Kosovo,[13] the Belgrade government sponsored a UN General Assembly Resolution requesting an "Advisory Opinion" from the UN's "principal judicial organ,"[14] the International Court of Justice (ICJ), regarding Kosovo's declaration of independence.[15] Serbia contended the declaration was a violation of international law, the UN Charter, and UNSCR 1244.[16] On July 22, 2010, the ICJ issued its ten-to-four majority opinion, declaring that it found no breach of international law in Kosovo's declaration.[17] Although at least one expert on International Law predicted that in the wake of the ICJ decision up to 30 additional states might recognize Kosovo,[18] as of this writing only three—Honduras, Kiribati, and Tuvalu—have done so.[19] Serbia has since renewed its pledge not to acknowledge Kosovo as an independent state.[20]

B. PURPOSE

Various elements of the international community espoused competing goals during both its 1999 military intervention in Kosovo and its post-conflict administration of the Yugoslav province: respect for sovereignty and territorial integrity of Yugoslavia

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[13] Republic of Serbia, Office of the Deputy Prime Minister, "Serbia Will Never Recognize Kosovo-Metohija's Independence," news release, 11 February 2010, http://www.srbija.gov.rs/vesti/vest.php?id=43070.

[14] The International Court of Justice, "The Court | International Court of Justice," http://www.icj-cij.org/court/index.php?p1=1. According to this site, "The International Court of Justice (ICJ) is the principal judicial organ of the United Nations (UN)."

[15] UN General Assembly, Resolution 63/3, "Request for an Advisory Opinion of the International Court of Justice on whether the Unilateral Declaration of Independence of Kosovo is in Accordance with International Law," 8 October 2008, http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N08/470/97/PDF/N0847097.pdf.

[16] Republic of Serbia, Office of the Prime Minister, "Kostunica Calls upon U.S. to Annul Decision to Recognise Independence of Kosovo," news release, 24 February 2008, http://www.srbija.gov.rs/vesti/vest.php?id=43550.

[17] Accordance with International Law of the Unilateral Declaration of Independence in Respect of Kosovo, Advisory Opinion, 2010 I.C.J. 141 (22 July), http://www.icj-cij.org/docket/files/141/15987.pdf.

[18] Radio Free Europe/Radio Liberty, "Legal Scholar Previews ICJ Ruling On Kosovo's Independence," 21 July 2010, http://www.rferl.org/content/Legal_Scholar_Previews_ICJ_Ruling_On_Kosovos_Independence/2106053.html.

[19] "Who Recognized Kosova as an Independent State?" accessed 10 December 2010, www.kosovothanksyou.com.

[20] Republic of Serbia, Ministry of Foreign Affairs, "Serbia Will Continue Defending Kosovo-Metohija by All Available Diplomatic Means," news release, 3 August 2010, http://www.srbija.gov.rs/vesti/vest.php?id=68002.

versus autonomy for Kosovo. Kosovo's declaration raises several questions. Given the emphasis placed on sovereignty and territorial integrity in numerous official texts such as UN resolutions and NATO statements, why is Kosovo now recognized as an independent state by much—albeit certainly not most—of the world? Did the UNMIK and KFOR policies, together with the manner in which those organizations implemented them, play a contributing role? Did the anti-Serb riots of March 2004 play a causal role in Kosovo's independence, or were they merely a manifestation of the sentiments entrenched on both sides of the Kosovo dispute? This thesis seeks to determine if a correlational or causal relationship exists between the international intervention in Kosovo and Kosovo's final status as an independent state. The main question it seeks to answer is: How did the international administration of Kosovo following the 1999 NATO military intervention impact Kosovo's final status?

C. IMPORTANCE

Although possessing unique characteristics, in many ways the events in Kosovo represent a metaphor for the dilemmas that daunt—and often, haunt—international interventions, whether purely humanitarian in nature or consisting of parallel humanitarian and military efforts. A conflict dyad exits here between sovereignty (as the "dean" of modern international relations principles) and self-determination (as the main principle espoused by the namesake and legacy of the twenty-eight American president, Wilsonian Liberalism).[21] Over the course of the debate leading up to NATO's ten-week military campaign and the near-decade of subsequent international administration, Kosovo became a metaphorical crucible within which the strength and resilience of these principles were tested. An examination of how each principle contributed to the accomplishment—or failure thereof—of stated goals for Kosovo may yield important lessons for planning and conducting future interventions, as well as clues to which circumstances most favor one principle relative to the others. The imperative for this

[21] David Fromkin, *Kosovo Crossing: American Ideals Meet Reality on the Balkan Battlefields* (New York: Free Press, 1999), 127.

examination stems from the plethora of separatist and irredentist movements worldwide that might generate ethnic conflict and thus invite intervention similar to that which occurred in Kosovo.

D. PROBLEMS AND HYPOTHESIS

1. Unintended Consequences?

Perhaps no arena suffers more miserably from the law of unintended consequences than does international relations. From British Prime Minister Neville Chamberlain's Munich concessions to German *Füher* Adolf Hitler in the name of "peace for our time,"[22] to Soviet Premier Nikita Khrushchev's decision to base nuclear-armed missiles in Cuba in order to *discourage* an American attack on the Communist island,[23] history is replete with the unexpected results of undertakings of both good and ill intent. While independence was always an eventual possibility in the case of Kosovo, the manner in which it occurred has called into question whether the UN, KFOR, and their component members appropriately weighed the competing principles of human rights, self-determination, and state sovereignty and territorial integrity. In addition to exploring the thesis question above, this study seeks to contribute to the ongoing dialogue regarding the proper balance among these principles.

Closely related to the concept of intent is that of interest. This study will examine the motives at work behind the postures struck and actions taken by the main participants in the Kosovo intervention—important considerations that might otherwise remain obscured within the hallway shadows of UN Headquarters, the White House, the Kremlin, and their counterparts in Brussels, Belgrade, and Priština. Such inspection will edify discussion of the sovereignty/self-determination dyad by characterizing the causes of why each principle fared as it did within the Kosovo crucible. How the major member

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[22] The Official Site of the Prime Minister's Office, "Neville Chamberlain," http://www.number10.gov.uk/history-and-tour/prime-ministers-in-history/neville-chamberlain.

[23] Graham T. Allison, *Essence of Decision: Explaining the Cuban Missile Crisis* (Boston: Little, Brown & Co., 1971), 47. See also Nikita Sergeevich Khrushchev, *Khrushchev Remembers*, trans. and ed. Strobe Talbott (Boston: Little, Brown & Co., 1970), 494.

states of the UN Security Council and NATO perceived the conflict almost certainly bore directly on how each approached the resolution process, within the context of not only planning the intervention but also in implementing that plan—"boots on the ground," as the saying goes—inside Kosovo. For example, previous experience with Slobodan Milošević during the conflict in Bosnia and Hercegovina (BiH) appears to have had a strongly negative influence on opinions of the Serbs held by many Western powers, particularly the Clinton Administration in the United States. Because recent events played a larger role in shaping opinion than did an informed consideration of the region's history, the resulting intervention made several missteps that hindered achievement of the plan's goals.

2. Whence Kosovo?

This study approaches the existence of an independent Kosovo state as a mystery. It examines three alternate explanations of Kosovo's independence in an attempt to find the *motive*, *means*, and *opportunity* by which Kosovo achieved independence. The first explanation is historical: it suggests a centuries-old mutual antagonism between Kosovo's ethnic-Albanian and Serb populations was an insurmountable obstacle to coexistence, and that partition was not only inevitable but also preferable regardless of UNMIK and KFOR's presence and actions within the province. Because this explanation holds that Kosovo's independence was primarily a function of internal factors as opposed to stemming from the international intervention, it effectively serves as a "null hypothesis" that the international administration of Kosovo was *not* a factor in Kosovo achieving independence. The second explanation is institutional. The premise of this explanation is that the provisional Albanian-dominated government in Priština had achieved a capacity that warranted tacit, if not overt, approval for independence. The third explanation is systemic. This explanation invokes the law of unintended consequences and asserts that the manner in which the various international organizations accomplished (or attempted to accomplish) their administration of Kosovo created systemic conditions that contributed to the province's unilateral declaration of independence, and without which it would have been unable to do so.

E. LITERATURE REVIEW

A satisfactory treatment of each alternate explanation above calls for a broad scope of literature. Fortunately, an extensive body of such literature exists, covering the history of Serbia and Kosovo up to and including NATO's Allied Force military intervention and the UN/OSCE/KFOR administration of Kosovo. For the purposes of this study, this body is broken down into three categories corresponding to the three possible explanations detailed above. The historical literature category revisits Kosovo's history as a means to evaluating the historical explanation for Kosovo's independence. While the preponderance of materials reviewed for the background category typically address the Serbian perspective, two points bear noting: first, Kosovo was part of Serbia for most of this time period; and second, Serbian experiences, interests, and motives both affected and influenced the ethnic-Albanian population of Kosovo.

The institutional literature category consists mainly of UN, OSCE, EU, and NATO official documents appraising the progress of institution-building efforts in Kosovo since the province came under international administration in 1999. This category also includes independent analyses of these organizations' efforts. The source documents for the systemic category are of similar origin to those of the institutional category, but focus more on the actual—vice intended—consequences of international administration, including second-order effects. Because many of these documents are useful for analyzing both explanations, such documents will be discussed collectively as opposed to dividing them into separate groups.

1. Historical Literature

Few would dispute the assertion that, to some extent, all nations are a product of their history. A robust body of literature covers the history of the Balkans region in general, and that of Serbia and Kosovo in particular. Robert Kaplan's haunting travelogue, *Balkan Ghosts*, depicts the region and its citizens as captives to a violent past: "'[h]ere we are completely submerged in our history.' .... I asked them about the past.

Only in this way could the present become comprehensible."[24] Kaplan's work reportedly influenced the Clinton Administration's policies for dealing with the ethnic strife in the former Yugoslavia.[25]

Stevan Pavlowitch's *Serbia: the History of an Idea* traces the historical trajectory of the Serbian nation from a collection of distinct communities linked to lineage and territory, through its coalescence under dynastic rule, Ottoman suzerainty, autonomy, and finally independence at the 1878 Congress of Berlin, to become the ambitious, nationalistic state that dominated the Balkan Wars fought in the biennium preceding the outbreak of World War I.[26] Although focused mainly on the Serbs, Pavlowitch also offers consideration of the Kosovar Albanians, noting their descent from mountain abodes to the fields of Kosovo left vacant by the Serbs who pushed north in the face of the Ottoman advance.[27]

Noel Malcolm's *Kosovo: A Short History* complements Pavlowitch's treatment of Serbia. Although the subtitle is somewhat of a misnomer, Malcolm's 356-page work traces many of the same events as Pavlowitch's much shorter (by 120 pages) *Serbia*, but from a Kosovar perspective. In contrast to Kaplan, Malcolm downplays the role of ethnic dissimilarity as a source of ancient antagonism.[28] The work also provides significant insights into Milošević's use of nationalistic rhetoric in order to consolidate his political power.

In *The Balkans: A Short History*, Mark Mazower, like Pavlowitch, peels back Balkan history in layers. He opens his work with a brief lesson in European geography, describing features and terrain that quickly strike the reader as having parallels outside

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[24] Robert Kaplan, *Balkan Ghosts: A Journey through History* (New York: St. Martin's Press, 1993), xxi.

[25] Elizabeth Drew, *On the Edge: The Clinton Presidency* (New York: Touchstone, 1995), 157. Drew points out that, in addition to President Clinton, Mrs. Clinton and Chairman of the Joint Chiefs of Staff General Colin Powell had also read at least portions of the book. Testifying before Congress, Clinton's Secretary of State, Warren Christopher, "described the Bosnia issue as 'a problem from hell,' a 'morass' of ancient hatreds among the Muslims, Serbs, and Croats, with 'atrocities on all sides.'" (162)

[26] Stevan K. Pavlowitch, *Serbia: The History of an Idea* (New York: New York University Press, 2002), 64–5.

[27] Pavlowitch, *Serbia*, 15.

[28] Noel Malcolm, *Kosovo: A Short History* (New York: New York University Press, 1998), xxix.

the physical realm: the tectonic plates of race, religion, language, and culture also collide in the Balkans. Mazower observes that these fault lines lay exceptionally dormant, becoming active only "recently" with the advent of nationalism.[29] The one exception is religion, an ever-present dynamic differentiating Christian Europe from Muslim Asia and, within Christendom, Catholicism from Orthodoxy.

Several other works of historical nature provide insight into the Serbia-Kosovo dynamic. Leften Stavrianos' *The Balkans, 1815-1914* instructively chronicles two important events that may have influenced Serbia's post-Yugoslavia course. The first was Russia's sacrifice of Serb ambitions at the Congress of Berlin,[30] which taught Serbia an important lesson about relying too heavily on the fickle fidelity of a Great Power that, no matter how kindred in spirit, has its own interests to look after. The second was the outbreak of the Second Balkan War in 1913, which demonstrated how quickly yesterday's ally can become today's adversary when respective nationalist and irredentist ambitions no longer run parallel.

Primary sources from the first half of the twentieth century provide important insights into the Balkan nation- and state-building that occurred as Europe's dynastic empires—the Ottomans and Hapsburgs—began to die off. *The Other Balkan Wars*, a modern reprinting of the 1913 *Carnegie Endowment Inquiry into the First and Second Balkan Wars*, offer a then-contemporary perspective on the two conflicts that many historians regard as having precipitated the First World War. Vaso Čubrilović provides an unvarnished commentary on Serb-Albanian relations in "The Expulsion of the Albanians by the Serbs," a 1937 treatise documenting what the author perceives as Serbia's shortcomings in "dealing with" Kosovo's Albanians.[31]

Further exploring the relationship between identity and territory in nation- and state-building, George White's *Nationalism and Territory* describes how "South Slavs

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[29] Mark Mazower, *The Balkans: A Short History* (New York: Random House, 2000), 40.

[30] Leften Stavros Stavrianos, *The Balkans, 1815-1914* (New York: Holt, Rinehart, and Winston, 1963), 69.

[31] Vaso Čubrilović, "The Expulsion of the Albanians by the Serbs," *That Was Yugoslavia: Information and Facts*, no. 4–5 (1993): 12.

[including the Serbs] began to define themselves ... according to language use and religious affiliation."[32] This notion of "constructed" identity—an important foreshadowing of the rampant nationalism of the post-Yugoslav era—is reflected in the writings of others, such as Andrew Wachtel[33] and Edin Hajdarpašić, the latter of whom writes of the competition between socialists, nationalists, and Muslims to reinterpret the historical narrative of the Ottoman legacy according to their respective perspectives.[34]

John Fine's chapter in *Balkan Strongmen* documents the rise of Josip Broz to power as Marshal Tito, the Communist Partisan who reunited Yugoslavia after World War II.[35] Mazower also examines Yugoslavia under Marshal Tito. He depicts Tito as a sort of twentieth-century incarnation of Bismarck, creating an elaborate, delicate political construct that he alone could sustain. Tito's death set the stage for the collapse of his Yugoslav federation, the rise of Milošević on the surging tide of Serb nationalism, and the resulting NATO and UN intervention. As before, Mazower's focus is not so narrow as to exclude the Kosovar Albanians, whose irredentism he describes as being stronger than most Balkan peoples "because they had been deprived for so long of their freedom."[36]

Finally, no review of this subject could be considered complete without an acknowledgement of Rebecca West's *Black Lamb and Grey Falcon*,[37] the epic travelogue written on the eve of the Second World War. A consummate raconteuse, West all but overwhelms her reader with details in her attempt to convey the spectrum of vivid emotions, pleasant and bitter, that she finds in the people whom she encounters.

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[32] George W. White, *Nationalism and Territory: Constructing Group Identity in Southeastern Europe* (Lanham: Rowman & Littlefield Publishers, 2000), 179.

[33] Andrew Wachtel, *The Balkans in World History* (Oxford: Oxford University Press, 2008), 78.

[34] Edin Hajdarpašić, "Out of the Ruins of the Ottoman Empire: Reflections on the Ottoman Legacy in South-eastern Europe," *Middle Eastern Studies* 44, no. 5 (September 2008): 716.

[35] John V. A. Fine, "Strongmen Can Be Beneficial: The Exceptional Case of Josip Broz Tito," in Bernd J. Fischer, ed., *Balkan Strongmen: Dictators and Authoritarian Rulers of South Eastern Europe* (West Lafayette, Indiana: Purdue University Press, 2007), 269–317.

[36] Mazower, *A Short History*, 142.

[37] Rebecca West, *Black Lamb and Grey Falcon* (New York: The Viking Press, 1941).

Although her work cannot be considered academically rigorous, its intimate depiction of Balkan life inculcates a fuller appreciation of the deep-seated beliefs and raw passions that permeate the region.

2. Institutional and Systemic Literature

Analyzing the institutional and systemic explanations requires a different approach from the historical explanation. Many of the works relevant to these explanations are primary sources in report or transcript format, often drawn directly from the organizations involved in the administration of Kosovo. As will be discussed shortly, media reports and independent analyses also represent important source documents. As previously mentioned, many of these documents are useful for analyzing both the explanations. Of these, the most relevant consist of UNMIK documentation on the "standards before status" policy.

One element important to both explanations is the degree to which NATO's military intervention and the subsequent international administration of Kosovo were perceived as legitimate by the Serbs, the Kosovar Albanians, and the most influential members of the international community. Because the institutional explanation depends on deference to the rule of law as opposed to superior force, the legitimacy of Kosovo's institutions—a necessary, but not sufficient, condition for their success—is at least indirectly tied to the legitimacy of the international intervention and administration that led to their creation. This linkage stems from the previous discussion regarding human rights and state sovereignty, and has important ramifications for both the institutional and systemic explanations.

A notable work in this vein is historian David Fromkin's *Kosovo Crossing*, an American-centric analysis of the American-led NATO campaign against Milošević's Serb forces. Although large tracts of this short work describe events that precede Allied Force, Fromkin's focus on the present situation in Kosovo never softens. Fromkin speaks directly to the sovereignty/self-interest dyad in his analysis of Woodrow Wilson's ambitious Fourteen Points and in his observation that the struggle between Serbia and

Kosovo, like its antecedents elsewhere in the former Yugoslavia, are "a rebellion against the terms and principles of the ... Paris Peace conference,"[38] where Wilson's Liberal principles so often failed to carry the day.

One example of academically rigorous, post-Allied Force literature is the International Peace Academy's analytical compendium *The UN Security Council: From the Cold War to the 21st Century*. Part 1, "New Concerns," and Part 3, "Evolving Institutional Factors," together examine several issues relevant to the underlying principles of the Kosovo intervention. Part 4 includes an analytical retrospective on the Kosovo intervention by Paul Heinbecker, who describes NATO's unilateral decision to act without first obtaining Security Council approval as an attempt, in the face of an intransigent Russia and a wary China, to "save the Council from itself by bypassing it."[39] Heinbecker's observation speaks directly to the perceived legitimacy of NATO intervention and the UNMIK and KFOR administration missions that followed. Such perceptions may have influenced not only how these missions were received by Kosovo's Serbs and ethnic Albanians, respectively, but also how they were carried out by the contributing nations.

The Madrid-based Fundación para las Relaciones Internacionales y el Diálogo Exterior has published a similar work, *Security Council Resolutions under Chapter VII: Design, Implementation and Accountabilities*.[40] Débora García-Orrico's chapter on Kosovo further explores the concept of legitimacy in the international intervention and details numerous coordination shortcomings within and between UNMIK and KFOR. Other Non-governmental organizations (NGOs) such as Human Rights Watch (HRW) and the International Crisis Group (ICG) produce targeted independent assessments of UNMIK and KFOR. These assessments offer analytical reviews and propose specific remediation actions. The investigative or "watchdog" approach taken by these groups

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[38] Fromkin, *Kosovo Crossing*, 161

[39] Paul Heinbecker, "Kosovo," in David M. Malone, ed., *The UN Security Council: From the Cold War to the 21st Century* (Boulder, CO: Lynne Reinner, 2004), 540.

[40] Débora García-Orrico, "Kosovo," in Blanca Antonini, ed., *Security Council Resolutions under Chapter VII: Design, Implementation and Accountabilities* (Madrid: Fundación para las Relaciones Internacionales y el Diálogo Exterior, 2009).

and their direct interactions with both Serbs and Kosovar Albanians who are not associated with agencies from either government contribute greatly to the value of the publications. This characteristic is especially relevant when examining events such as the March 2004 riots during which Serbs complained of "reverse ethnic cleansing."[41] Other NGOs such as policy review think tanks also contribute to the discussion through position papers and policy analyses.

A salient treatment of the institutional approach is provided by Anne-Marie Gardner. Gardner builds upon the legitimacy issue discussed above by proposing that individual states and international organizations such as the UN respond more favorably to sub-state groups' claims to self-determination when those groups conform to Western standards such as "human rights and democratic norms."[42] In Gardner's view, recognition of Kosovo's declaration of independence is a function of the Kosovar government's demonstration of its commitment to institutions and its capacity for governance.

Additional clues for evaluating the institutional and systemic explanations can be found in UN and NATO official texts, including the series of Security Council resolutions that preceded and followed NATO's military campaign and the charter documents for UNMIK and KFOR. Alexandros Yannis, a close political advisor to the first head of UNMIK, French diplomat and physician Bernard Kouchner, provides an insider's view of UNMIK's early successes and struggles—as well as its remaining challenges—in his 2000 work *Kosovo under International Administration: An Unfinished Conflict*.[43] The UN and NATO have released regular updates and periodic reports, at both their headquarters level and through their Kosovo operations, that track actual progress against proposed goals. Comparing these reports with publications from the

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[41] International Crisis Group, "Collapse in Kosovo," *ICG Europe Report*, no. 155 (22 April 2004): 16, http://www.crisisgroup.org/library/documents/europe/balkans/155_collapse_in_kosovo_revised.pdf.

[42] Anne-Marie Gardner, "Beyond Standards before Status: Democratic Governance and Non-state Actors," *Review of International Studies* 34, no. 3 (2008): 531.

[43] Alexandros Yannis, *Kosovo under International Administration: An Unfinished Conflict* (Geneva: Programme for International Security Studies and the Hellenic Foundation for European and Foreign Policy, 2001).

previously-mentioned NGO watchdog groups often proves useful for evaluating both the institutional and systemic explanations for Kosovo's independence.

Official government documents from Belgrade, Washington, Moscow, and the capitals of Europe are also instructive for discerning the interests, intentions, and motivations of the member governments supporting the Kosovo intervention. Specifically, reports from different agencies within the same national government can help reveal policies that may be at cross-purposes. For example, the United States, as an influential permanent member of the UN Security Council, ostensibly supported the "standards before status" approach adopted for Kosovo; yet a House of Representatives hearing on Kosovo's declaration of independence observes that "[a]s long as Kosovo's final status remained unresolved, businesses were reluctant to invest there, and international financial institutions were unable to offer the needed monetary assistance."[44] Such observations speak to potential disconnects between policy goals and the effects of policy implementation.

F. CHAPTER OUTLINE

The remainder of this study is divided into four additional chapters. Chapter II will examine the historical explanation proposed above. This chapter provides a historical overview that will explore Kosovo's significance in Serbian history. It will trace the evolution of the Serbs as a nation and Serbia as a state, from the ancient Serb Dynasties through the Ottoman occupation, twentieth century wars, and the creation and disintegration of Yugoslavia. It will also examine the ethnic Albanian experience in Kosovo and historical trends in Serb-Albanian relations there. Finally, it will then evaluate the plausibility of the historical explanation.

Chapter III will inspect the institutional explanation. It will do so by first examining the competing principles that framed the debate over intervention—a debate that dominated various international venues from the summer of 1998 to the spring of

[44] *The Balkans After the Independence of Kosovo and on the Eve of NATO Enlargement: Hearings Before the House Comm. on Foreign Affairs,* 110th Cong., 1 (12 March 2008) (statement of Rep. Howard L. Berman, Comm. Chairman).

1999—as well as the discussion on how to proceed with governing Kosovo once the debate over intervention was obviated by the NATO military action. It will then examine the "standards before status" criteria by which UNMIK and its partner administrative organizations gauged Kosovo's readiness for independence. Finally, it will evaluate the extent to which such criteria were met by the Provisional Institutions of Self-Government (PISG) when the Kosovo Assembly declared independence.

Chapter IV will scrutinize the systemic explanation for Kosovo's independence. To this end, it will investigate the perceptions and motivations of which the main actors at the state and international level were possessed, as well as their respective approaches to administering Kosovo. It will also evaluate the actual implementation of Security Council Resolution 1244, again focusing on the UN's "standards before status" approach and its effectiveness in engaging both Serbian and Kosovar Albanian leaders in a constructive dialogue regarding Kosovo's future. In addition, it will examine the efficacy of UNMIK and KFOR in fulfilling the resolution's provisions. Finally, it will explore the anti-Serb riots of March 2004—a defining moment in post-Allied Force Serb-Albanian relations that irreparably severed Serbian faith in the ability of the UN, EU, OSCE, NATO, and other international organizations to equitably represent Serb interests and fairly broker Kosovo's future status.

Chapter V will summarize the findings of this study. It will draw conclusions and offers lessons learned for future international interventions.

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II. BAD BLOOD: A HISTORICAL EXPLANATION

A. BACKGROUND: KINGS, PRINCES, SAINTS, AND MARTYRS

1. History's Contours

The present situation in Kosovo cannot be fully understood, much less analyzed, without an at least cursory appreciation of the region's past. Balkan history is perhaps best understood in terms of geography, and that of Serbia and Kosovo is no exception. Mazower devotes much of the first chapter of his *The Balkans: A Short History* to describing the region's terrain, following the precedent set by Fernand Braudel 30 years earlier in the opening chapter of his two-volume work on the Mediterranean Realm of Spanish Monarch Philip II's Holy Roman Empire: "Mountains come first."[45] Through, and on rare occasion across, these mountain-lined channels would ebb and flow of migration, imperial invasion and decline, and military incursion and retreat.[46]

Ruled in turn by Ancient Greece, Rome, and Constantinople (first under the Byzantine Empire and then the Ottoman Turks), the Slavic races of the Balkans were constantly in motion, their boundaries changing like the contours of the beach under the force of incoming waves, the fringes of their populations scattered into diasporas like the ocean-born detritus deposited at the water's edge. The rugged karst topology also tended to isolate regions within the peninsula from each other, so that, for example, "Dubrovnik [on the Dalmatian Coast] ... has had closer ties for much of its history with Venice than with Belgrade."[47] Thus, as the Slavic peoples who first appeared south of the Danube in

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[45] Fernand Braudel, *The Mediterranean, and the Mediterranean World in the Age of Philip II* (London: Harper & Row, 1972), 25, cited in Mark Mazower, *The Balkans: A Short History* (New York: Random House, 2000), 2.

[46] An account of the Serb government and army's retreat through the Albanian mountains during World War I is related in Pavlowitch, *Serbia*, 97.

[47] Mazower, *A Short History*, 3.

the sixth century A.D.[48] spread throughout the peninsula, they began to speak different dialects of the same root and develop their own distinct cultures.

2. Dynastic Serbia, the Ottoman Empire, and the Cult of Prince Lazar

Serbia's earliest experiences as a kingdom demonstrate the deep intertwining of authority with religion in the region. Stephen Nemanjić, crowned "king of all Serbia" in 1217, was the brother of Sava, the first archbishop of the newly-autocephalous Serbian Orthodox Church.[49] Stephen played the political game well, playing rivals off of each other while maintaining ties with Rome as well as Byzantium, while Sava was firmly grounded in the Orthodox East.[50] Nevertheless, the brothers provided each other with mutual support, and so "[t]he connexion between dynasty and church contributed to binding the Nemanjić lands."[51] An important product of the close ties between throne and archbishopric was the rise of the cult of dynastic saints.[52]

The most notable such saint to bear the Nemanjić mantle was Prince Lazar Hrebeljanović. Although his domain was much reduced from that of Serbia's apex under King Stefan Dušan,[53] his death at the battle of Kosovo Polje, the "Field of Blackbirds," forever cemented his legacy—as well as Kosovo's—in Serbian history.[54] While most historians agree Serbian tales of the battle are grounded only partially in fact,[55] the resulting "Cult of Lazar" nevertheless became deeply embedded in the Serb psyche. Legend offered up the tale of the Prophet Elijah, flying from Jerusalem in the guise of a falcon, bearing a message from the Virgin Mary:

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[48] Florin Curta, *The Making of the Slavs: History and Archaeology of the Lower Danube Region, c. 500-700* (Cambridge: Cambridge University Press, 2001), 76.

[49] Pavlowitch, *Serbia*, 3.

[50] Pavlowitch, *Serbia*, 2–3.

[51] Pavlowitch, *Serbia*, 3.

[52] Pavlowitch, *Serbia*, 3.

[53] Pavlowitch, *Serbia*, 9.

[54] See, for example, Kaplan, *Balkan Ghosts*, 37; Pavlowitch, *Serbia*, 10; Wachtel, *World History*, 55.

[55] Wachtel, *World History*, 55;

> Of what kind will you have your kingdom?
> Do you want a heavenly kingdom?
> Do you want an earthly kingdom?[56]

Lazar, according to the legend, chose the former, and the fallen prince made his way through Orthodox panegyrics into sainthood: "Lazar's death was thus seen as a martyr's sacrifice for the Christian faith, and one that established a new link with Heaven."[57] This "new link" was anchored, quite literally, in the plains of Kosovo.

3. Under the "Ottoman Yoke": The Ottomans Advance, Lazar Retreats, and the Kosovar Albanians Descend

As the Serbs pushed north during the middle of the sixteenth century in the face of inexorable Ottoman gains up the Balkan Peninsula, they left open the lowlands of Kosovo. These lowlands were subsequently occupied by the mountain-dwelling Albanians from the southwest,[58] most of whom had converted to Islam and thus had less to fear from the ruling Ottomans. The following observation from Pavlowitch may well describe the root cause of the geopolitical dilemma that bedevils Serbia-Albanian relations in Kosovo:

> The Serbian Realm had been a shifting one, moving from eastern Bosnia in the west to Macedonia and further southeast, and then again from south to north, as the power of Byzantium oscillated, as its Bulgarian rival rose and fell, and as the Ottoman Turks advanced ....[59]

Kaplan picks up this thread of logic by way of a medical analogy. He describes "conflicting dreams of lost imperial glory" as the "principle illness of the Balkans."[60] Thus, if Pavlowitch's shifting borders are the pathogen, then the symptom, according to Kaplan, is that "[e]ach nation demands that its borders revert to where they were at the

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[56] Kaplan, *Balkan Ghosts*, 37.

[57] Pavlowitch, *Serbia*, 10.

[58] Fromkin, *Kosovo Crossing,* 109; Pavlowitch, *Serbia*, 15; Wachtel, *World History*, 69.

[59] Pavlowitch, *Serbia*, 12.

[60] Kaplan, *Balkan Ghosts*, 57.

exact time when its own empire had reached its zenith of ancient medieval expansion."[61] Such competing historical narratives, founded in the geographic and cultural displacement of the conquered by the conqueror, were woven into the Balkan social fabric. In time the Ottoman occupation of Christian lands within Europe became known as the "Ottoman yoke."[62]

Some of the Serbs who remained in Kosovo were not only Islamized but also Albanianized by the Ottomans.[63] However, although deserted in large part by its erstwhile Serb occupants, Kosovo remained home to the many medieval Orthodox monasteries that dotted its bucolic countryside, with their inspiring centuries-old murals and the relics of Orthodox saints, including Lazar's. Kaplan adopts the "crowd symbol" methodology of Elias Canetti, a native Hungarian,[64] to help focus his treatment of Serb-Albanian antagonism within Kosovo. Crowd symbols are a type of metaphorical shorthand for a nation's historical narrative: the *sea* for the English, the army—the "*marching forest*"—for the Germans, the *revolution* for the French, and the Exodus from Egypt for the Jews.[65] Kaplan asserts the Serbs have two such symbols: the medieval monasteries of "Old Serbia" (Kosovo), and Kosovo Polje, the field where Lazar fell in battle in 1389.[66] By adopting these crowd symbols, the Serbs retained their spiritual link to Kosovo despite having departed the province physically.

After the Ottomans repulsed a late seventeenth-century assault by the combined forces of Austria, Poland, and Venice, the monks of Lazar's foundation fled to Belgrade, bringing his relics with them.[67] As the Cult of Lazar took root in its new home, it became intimately associated with "Old Serbia": "The emotional attachment of those

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[61] Kaplan, *Balkan Ghosts*, 57.

[62] Wachtel, *World History*, 54.

[63] Pavlowitch, *Serbia*, 24.

[64] Kaplan, *Balkan Ghosts*, 15.

[65] Kaplan, *Balkan Ghosts*, 15.

[66] Kaplan, *Balkan Ghosts*, 35.

[67] Pavlowitch, *Serbia*, 19.

who had left, and thus lost, Kosovo fed in to the epic legend."[68] This sentiment also grew among Orthodox Serbs still living in nearby Montenegro.[69]

In a manner of speaking, then, the Balkan region's ethnic contours became a geopolitical reflection of the physical contours that helped shape the face of language, culture, and religion. This holds true not only literally, in the form of the limestone blocks used to build monastery and mosque alike; it also holds true in a deeper sense, in that the mountains from which the limestone was quarried provided the channel through which the Islam of the Ottomans displaced the Orthodoxy of the Serbs in the Kosovo lowlands, and in doing so set the stage for the bitter conflict centuries later that would ultimately lead to Kosovo's independence.

B. SERBIA IN THE TWENTIETH CENTURY

1. Kosovo, Gained and Lost

Serbia gained formal independence from the tottering Ottoman Empire in 1878,[70] but its freedom was a bittersweet one: it did not count Kosovo among its holdings. Falling still within the oppressive shadow of the Catholic-dominated Austro-Hungarian Empire, Orthodox Serbia bid its time and husbanded its strength. Its involuntary patience was rewarded in 1912 when it joined the Balkan League, an alliance of convenience formed with Russian encouragement as a foil to Vienna[71]—which had aroused Russian ire by annexing Bosnia-Herzegovina[72]—but which instead set about driving the remaining Ottoman forces from Europe. Pavlowitch makes clear the influence of the Cult of Lazar:

> The realization that Kosovo could finally be liberated and avenged fired the conscripts' imagination. "Kosovo" had by then become a complex whole interweaving several elements—the battle which symbolized the

[68] Pavlowitch, *Serbia*, 23.

[69] Pavlowitch, *Serbia*, 24.

[70] Pavlowitch, *Serbia*, 64.

[71] Mazower, *A Short History*, 97.

[72] Pavlowitch, *Serbia*, 83.

> end of medieval Serbia and the beginning of Turkish domination, the religious values of martyrdom and hope, and the territory of what had come to be called "Old Serbia."[73]

Perhaps predictably, Serb forces committed numerous atrocities against the Muslim, ethnic-Albanian population of Kosovo,[74] which understandably embittered the residents who had for centuries called the province home.[75]

Serbia had regained Kosovo, but its hold on the province throughout the ensuing century would be tenuous. As mentioned in Chapter I, the province was given to Albania during World War I. "'Every [Serbian] peasant soldier knows what he is fighting for,' noted [journalist] John Reed, at the front in World War I. 'When he was a baby, his mother greeted him, "Hail, little avenger of Kossovo!"'"[76] Reclaiming Kosovo at war's end, Serbia, now part of the new Kingdom of the Serbs, Croats, and Slovenes, embarked on a campaign of resettlement aimed at reclaiming the province demographically[77]—a venture whose failure was lamented by the polemic Dr. Čubrilović.[78] "The only way and the only means to cope with [the Kosovar Albanians] is the use of the brutal force by an organized state," Čubrilović unapologetically wrote.[79] Disparaging previous attempts to "[resolve the] immense ethnic problem" using "Western methods,"[80] Čubrilović advocated mass, forced emigration similar to that mandated by the 1923 peace treaty between Greece and Turkey.[81]

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[73] Pavlowitch, *Serbia*, 83.

[74] Mazower, *A Short History*, 117.

[75] Pavlowitch, *Serbia*, 84.

[76] John Reed, *The War in Eastern Europe* (New York: Charles Scribner's Sons, 1916), 54, quoted in Kaplan, *Balkan Ghosts*, 38.

[77] Pavlowitch, *Serbia*, 120.

[78] Čubrilović, "The Expulsion of the Albanians," 9.

[79] Čubrilović, "The Expulsion of the Albanians," 12.

[80] Čubrilović, "The Expulsion of the Albanians," 7.

[81] Fromkin, *Kosovo Crossing*, 138–9.

After the Second World War—which, within the Kingdom of the Serbs, Croats, and Slovenes was essentially a bloody civil war[82]—Marshal Tito cobbled the kingdom's ethnic republics together to form Yugoslavia, a Communist state that from outside looked much like its pre-war predecessor. Tito sought to eventually include Albania in his federation and used Kosovo as his bargaining chip.[83] Since Kosovar Albanians were viewed as "counter-revolutionaries" with little desire to rejoin with Yugoslavia,[84] Tito made Kosovo an autonomous region of Serbia[85] instead of making it its own separate republic. In the interim, he thwarted Serb and Kosovar Albanian ambitions alike (although he may have believed he was reconciling them instead[86]): Kosovo would remain part of Serbia—as opposed to being a separate republic within the Yugoslav Federation—but it would be an autonomous province.[87] Although Serb-Albanian tensions there would continue to simmer, Tito's strongman approach would keep them in check for the next 35 years.

2. "Balkan West Bank": The Rise of Nationalism, the Collapse of Yugoslavia, and the Return of Lazar

Yugoslavia survived for a decade after Tito's death in 1980. Its disintegration in the early 1990s followed the collapse of Communism elsewhere in Eastern Europe, but the seeds of its particular brand of destruction had been sown decades—if not centuries—earlier. Ultra-nationalists such as Slobodan Milošević in Belgrade and Franjo Tudjman in Zagreb rode waves of nationalistic sentiment to the zenith of political power and proceeded to dismember with bloody ferocity the federation Tito had constructed. Milošević often invoked the memory of medieval Kosovo to stir up Serbian ire. In a statement reminiscent of Kaplan's description of Serbia's "crowd symbols," Milošević

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[82] Mazower, *A Short History*, 131.

[83] Pavlowitch, *Serbia*, 151, 164.

[84] Fine, "Strongmen Can Be Beneficial," 282.

[85] Fine, "Strongmen Can Be Beneficial," 281.

[86] Kaplan, *Balkan Ghosts*, 38–9.

[87] Pavlowitch, *Serbia*, 154.

once told his Serb audience, "'Every nation has a love which eternally warms its heart ... [f]or Serbia it is Kosovo.'"[88] Appropriately, the chapter in which Kaplan makes his remarks bears the subtitle, "Balkan 'West Bank.'"

Milošević also harnessed the powerful image of Prince Lazar as part of a carefully-crafted strategy to solidify his Serbian base. Three hundred years after his relics were whisked to Belgrade by fleeing monks—and one year after Milošević had told a crowd of defiant Serbs in Kosovo, "no one should dare to beat you"[89]—Lazar made a triumphant return to Kosovo. Over the course of the year leading up to the 600th anniversary of his martyrdom, he made a sort of posthumous victory lap around the province.[90] Kaplan described the martyr's reception:

> The throngs of shrieking mourners surrounding his wooden coffin resembled mourners at the bier of the Imam Husain, [who was] massacred ... by the Sunni armies of Yazid. Like the Shiites, unreconstructed Serbs ... granted no legitimacy to their temporal rulers, whether Ottoman Turks or Yugoslav Communists. In this way, they ignored their physical world. They knew that, one day soon, [Prince] Lazar in heaven would reclaim what was rightfully his on earth.[91]

Despite the six centuries since their hero's martyrdom and the three centuries since his hasty, inglorious departure, Kosovo's Serbs faithfully welcomed their sainted prince.

3. Yugoslavia, Serbia, Kosov*o*, and Kosov*a*

Prospects for the Kosovar Albanians dimmed as Milošević's political fortunes brightened. Although they had enjoyed improvements in income, quality of life, and civic governance in the late 1980s, Milošević's campaign of systematic civic and economic discrimination reversed those gains.[92] The most odious example of these

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[88] Malcolm, *Kosovo*, 343.

[89] Fromkin, *Kosovo Crossing*, 155; for an alternative account, see Kaplan, *Balkan Ghosts*, 39.

[90] Kaplan, *Balkan Ghosts*, 38.

[91] Kaplan, *Balkan Ghosts*, 38.

[92] Alexandros Yannis, "Kosovo: The Political Economy of Conflict and Rebuilding," in Karen Ballentine and Jake Sherman, eds., *The Political Economy of Armed Conflict: Beyond Greed and Grievance* (Boulder: Lynne Rienner, 2003), 173.

policies was the "1990 Labor Act for Extraordinary Circumstances," under which almost 150,000 ethnic Albanians in Kosovo were dismissed from public sector positions.[93] Civil disobedience in the form of demonstrations and strikes resulted in violent clashes with police.[94]

This period was marked by rising interest in secession among the Kosovar Albanians. A 1990 referendum for independence, although illegal in Belgrade's eyes and boycotted by Kosovo's Serbs, received 99 percent approval.[95] Support for Dr. Ibrahim Rugova's Democratic League of Kosovo (or LDK, after its Albanian name Lidhja Demokratike e Kosovës) grew rapidly.[96] Rugova envisioned a three-plank platform: preventing a war of secession, garnering international attention and support for Kosovo's plight, and delegitimizing Serbian rule within Kosovo by means of civil disobedience and installation of a parallel government.[97]

Yannis describes "three critical moments in the recent history of Kosovo that transformed the political dispute between Kosovo Albanians and Yugoslavia into an open liberation and secessionist war."[98] The first was Milošević's effective rescinding of the autonomy Tito granted Kosovo in the 1974 Yugoslav constitution; the second was the successful, if costly, secessions of Slovenia, Croatia, Bosnia-Herzegovina, and Macedonia; and the third—and perhaps, most damning—was the failure of the Dayton Peace accords to include provisions for Kosovo's feature.[99] On the last of these elements, Yannis suggests the Kosovar Albanians learned the same lesson the Serbs had a century before at the Congress of Berlin: a nation's ability to make change by force of arms has far greater efficacy than the patronage of "Great Power" sponsors.[100]

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[93] Yannis, "The Political Economy of Conflict," 173.

[94] Malcolm, *Kosovo*, 344–5.

[95] Malcolm, *Kosovo*, 347.

[96] Malcolm, *Kosovo*, 348.

[97] Malcolm, *Kosovo*, 348.

[98] Yannis, "The Political Economy of Conflict," 170.

[99] Yannis, "The Political Economy of Conflict," 170.

[100] Yannis, "The Political Economy of Conflict," 171.

It was to be a lesson well learned. After the 1995 Dayton Accords, only Serbia (including Kosovo) and Montenegro remained in "rump Yugoslavia." (Montenegro would declare independence in 2006.) Although Rugova's LDK shadow government was functioning effectively, his failure to garner international support and involvement caused popular support among Kosovar Albanians to shift from the LDK to the emerging Kosovo Liberation Army[101] (KLA, or UÇK after its Albanian name, Ushtria Çlirimtare e Kosovës). Following, classical insurgent doctrine, the KLA embarked on a campaign of insurgency.[102] A pattern of brutal tit-for-tat followed, with KLA provocations bringing heavy-handed Serb reprisals and vice-versa. Eventually Belgrade would use KLA actions as justification to launch what it termed counterterrorism missions throughout Kosovo. As these missions grew in scope, they led to charges of ethnic cleansing, which led to NATO's initiation of Allied Force. In the end Rugova got what he wanted: the Kosovo issue became internationalized. Just over six months after Allied Force ended, senior Hoover Institution fellow Timothy Garton Ash wrote, "Thanks to us, Kosova ends with an *a*—the Albanian as opposed to the Serbian spelling."[103]

C. EVALUATING THE HISTORICAL EXPLANATION

Although the preceding passages make clear the competing narratives and goals of Kosovo's Albanians and their Serbian neighbors, they do not tell the complete story. They represent *fact*, but not necessarily a complete *truth*. It requires little effort to imagine the Serb-Albanian dynamic within Kosovo as a natural antagonism born of race, tongue, and creed: Slavic against Illyrian, Serbo-Croatian against Albanian, and above all Orthodox Christianity against Ottoman Islam. It is not altogether unsurprising that both the UN's Special Representative to the Secretary-General and the commander of

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[101] Yannis, "The Political Economy of Conflict," 171.

[102] For an overview on insurgent strategy for popular support, see Christopher Paul, "How do Terrorists Generate and Maintain Support?" in Paul K. Davis and Kim Cragin, eds., *Social Science for Counterterrorism: Putting the Pieces Together* (Santa Monica: RAND Corp, 2009): 113–150.

[103] Timothy Garton Ash, "Winning the Balkans to Lose Them," *Hoover Digest*, no. 2 (2000), http://www.hoover.org/publications/digest/3484391.html.

KFOR agreed that "[t]he violence can be explained by hatred accumulated over centuries,"[104] despite this assertion from historian Noel Malcolm:

> There have been many battles and wars in Kosovo over the centuries, but until the last 100 years or so none of them had the character of an 'ethnic' conflict between Albanians and Serbs. Members of those two populations fought together as allies at the battle of Kosovo in 1389—indeed, they probably fought as allies on both sides of that battle.[105]

There is no doubt some historical enmity exists between Kosovo's Albanian and Serb populations, but to accept Kosovo's independence as the inevitable product of this enmity is to make assumptions about its origins and nature.

Consider, for example, this series of passages from Kaplan as he recounts his conversation with a Serbian Orthodox nun, Mother Tatiana, in a Kosovo monastery:

> Mother Tatiana did not hint, therefore: "We would have been even greater than the Italians, were it not for the Turks." That was the refrain you heard throughout the Balkans.... Dame Rebecca [West] writes: "The Turks ruined the Balkans, with a ruin so great that it has not yet been repaired...."
> .... For decades, prostrate under Tito, Mother Tatiana had other worries, other battles to fight. But with that plague ending, she was back to fighting the Turks, *although she now called the problem by another name*.[106]

Mother Tatiana's grievance continues a few pages later:

> "I have remained inside these [monastery] walls for thirty-five years.... In 1539, there was a printing press here. *Out there*," lifting her hand, "it is all dirty and uncared for." *Out there* is ... what Mother Tatiana now called "Old Serbia" [Kosovo].... In recent decades ... this hallowed ground has been demographically reclaimed, <u>not by the Turks, but by their historical appendants, the Muslim Albanians</u>.[107]

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[104] Juan Pekmez, "The Intervention by the International Community and the Rehabilitation of Kosovo," Rehabilitation of War-torn Societies Project paper, Centre for Applied Studies in International Negotiations, January 2001, 11–12.

[105] Malcolm, *Kosovo*, xxix.

[106] Kaplan, *Balkan Ghosts*, 32 (italics mine).

[107] Kaplan, *Balkan Ghosts*, 35 (italics in the original; underlined text mine).

Kaplan offers such anecdotes as evidence of a deeply ingrained, mutual animosity between Serbs and Kosovar Albanians. When coupled with the passage quoted in Chapter I ("'Here we are completely submerged in our history,'")[108] such excerpts speak to a perceived inability to escape the past: coexistence between the Serbs and Albanians is impossible because the latter represent modern reminders of the "Turkish yoke." Couched in such terms, ethnic strife in Kosovo takes on a quality of inevitability, even `inexorability. As Mother Tatiana presciently told Kaplan a decade before Allied Force, "'Things will get worse between us and the Albanians—you'll see. There can be no reconciliation.'"[109]

A closer inspection of the historical record from which this narrative emerges reveals a more complete truth. Pavlowitch points out that the concept of a "Serbian ethnic consciousness" appeared only *after* the Ottoman conquest of the Balkan Peninsula temporarily halted the internecine territorial squabbles between the various Slavic tribes there.[110] For example, the *millet* system by which the Ottomans delegated daily rule of their Christian subjects to the Orthodox hierarchy[111] benefited the Serbian church, allowing it to "[provide] a major ingredient for the elaboration of a common [Serb] ethnic identity."[112] In a sense, then, the emergence of the Serbs as a nation is at least indirectly a product of the Ottoman incursion into Europe.

Although Muslims occupied a higher legal status in Ottoman society than Christians or Jews, overall the Ottomans were more tolerant of other religions than their European Christian counterparts.[113] Forced conversions to Islam were comparatively rare,[114] although many Christians converted to Islam to escape the societal and economic burdens imposed on non-Muslims.[115] As a result, the region remained decidedly

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[108] Kaplan, *Balkan Ghosts*, xxi.

[109] Kaplan, *Balkan Ghosts*, 32.

[110] Pavlowitch, *Serbia*, 16.

[111] Wachtel, *World History*, 60.

[112] Pavlowitch, *Serbia*, 17; Wachtel, *World History*, 61.

[113] Mazower, *A Short History*, 47–8.

[114] Wachtel, *World History*, 61.

[115] Mazower, *A Short History*, 46–7; Wachtel, *World History*, 60.

heterogeneous compared to the rest of Europe. Mosques sprang up next to churches, while Christians, Jews, and Muslims lived side-by-side.[116] Mazower devotes lengthy passages to the common practice of various religious groups borrowing each others' customs.[117] Such accounts of mundane multi-confessional coexistence contradict the notion that Serb-Albanian relations were dominated historically by "ancient hatreds."[118]

Scholar Isa Blumi also refutes the historical explanation's main premise that "ancient hatreds" and memories of the "Ottoman yoke" created an atmosphere so divisive that "there [could] be no reconciliation." Blumi takes issue with Kaplan's "excessively gloomy descriptions"[119] and opposes as reductionist Kaplan's portrayal of the Balkans region. Lamenting what he terms "the marginalization of historical cognition,"[120] Blumi soundly rejects the binary, monolithic terms in which the Kosovo conflict has been cast.[121] Returning to this message in a later chapter, Blumi notes:

> [D]espite their seemingly irreconcilable differences, Christians and Muslims, Slavs and Albanians, maintained integrated social and economic lives that confounded, at least initially, [nineteenth-century] Ottoman, Austrian and Russian efforts to assert influence.... How this translates over time has a great deal of value in arguing against the assertions present-day historians of the Balkans make about inter-communal relations.[122]

This observation corroborates Mazower's description of multi-confessional coexistence.

Like Blumi, Malcolm also impugns the historical explanation's underlying premises and explanatory power. As he asserts in his introduction to *Kosovo: A Short History*:

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[116] Wachtel, *World History*, 63.

[117] Mazower, *A Short History*, 54–6.

[118] Isa Blumi, *Rethinking the Late Ottoman Empire: A Comparative Social and Political History of Albania and Yemen, 1878-1918* (Istanbul: The Isis Press, 2003), 39. Blumi quotes a 1993 speech by British Prime Minister John Major before the House of Commons in which Major asserts Communism suppressed "ancient hatreds" in Yugoslavia, and its collapse there allowed those hatreds to re-emerge.

[119] Blumi, *Rethinking the Late Ottoman Empire*, 40.

[120] Blumi, *Rethinking the Late Ottoman Empire*, 40.

[121] Blumi, *Rethinking the Late Ottoman Empire*, 41.

[122] Blumi, *Rethinking the Late Ottoman Empire*, 86.

> [O]nce we begin to examine both the present political situation and the nature of Kosovo's past, the idea of ethnic or religious hatred welling up from the depths of popular psychology starts to seem less convincing.[123]

Echoing the Mazower and Blumi's observations regarding multi-confessional rapport, Malcolm recounts "examples of mixed religious life involving the Orthodox as well as the Catholics with the Muslims: the syncretistic practices of folk religion ... or the tradition of Muslim Albanian 'guardians' of Orthodox religious sites."[124] He carefully traces the history of the Cult of Lazar, noting prominent discontinuities in the celebration of the martyr's feast day between the sixteenth and nineteenth centuries.[125] Of particular significance is Malcolm's attribution of the nineteenth-century revival in the cult's popularity to no less than nineteenth-century linguist and author Vuk Karadžić. According to George White, Karadžić advanced the accretion of the Serb national identity during the twilight years of Ottoman power in Southeast Europe by promoting a standardized version of the Serbian language.[126] Wachtel notes Karadžić "almost single-handedly created a Serbian literary language," in the belief it could help "forge a Serb identity that could cross class and religious lines."[127] The implication for Serb identity is that its Lazarian historical narrative, like its language, is at least a partially constructed phenomenon—and such construction took place much closer to present day than to the year of Lazar's death. It should be noted that Karadžić's concept of the Serb identity was an inclusive one that included Serb-speaking Muslims.[128] Clearly the same cannot be said for Slobodan Milošević, who sought to manipulate Karadžić's constructs for his own political gain.

Although such observations do not negate existing evidence of historical tensions between Serbs and Kosovar Albanians,[129] they broaden the context within which such

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[123] Malcolm, *Kosovo*, xxviii.

[124] Malcolm, *Kosovo*, xxviii.

[125] Malcolm, *Kosovo*, 78.

[126] White, *Nationalism and Territory*, 182.

[127] Wachtel, *World History*, 78.

[128] White, *Nationalism and Territory*, 182.

[129] Malcolm, *Kosovo*, xxix.

evidence must be considered. Revealing purported "ancient hatreds" as part skewed misrepresentation of the historical record and part constructed narrative originating only in the century prior to Kosovo's independence greatly undermines the historical explanation by robbing it of its agency. In other words, ethnic and religious antagonism, although having some basis in fact, was exploited by political actors on both sides of the Kosovo crisis in order to advance political goals. Malcolm's observation about the Bosnian conflict also holds true for Kosovo: "But between low-level prejudices on the one hand and military conflict ... on the other, there lies a very long road: it was the political leaders who propelled the people down that road, and not vice-versa."[130] And had the Serbs not oppressed Kosovo's Albanians as part of Milošević's nationalistic agenda—first through civic disenfranchisement and then through physical violence, both perpetrated by political leadership—it is likely Kosovo would still be part of Serbia today. The most that can be said about the historical explanation is that its exploitation by the Serbs provided motive to the Kosovar Albanians to pursue secession. The null hypothesis is thus demonstrated to be false. While this explanation describes a necessary condition for Kosovo's independence, it alone is not sufficient to explain how Kosovo was able to achieve that independence.

[130] Malcolm, *Kosovo*, xxviii.

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III. GOOD GOVERNANCE AND THE COMPETING PRINCIPLES OF STATE-BUILDING: AN INSTITUTIONAL EXPLANATION

A. INTRODUCTION

Armed intervention is the most flagrant violation of a nation's sovereignty, and the NATO military intervention in Kosovo was an extremely contentious event. The issue is one of sovereignty: as a rule, states do not forcibly interfere in the internal affairs of other states lest they invite such interference upon themselves. Resolution 1244 stipulated the UN presence in Kosovo would respect Yugoslavia's sovereignty and territorial integrity while simultaneously providing autonomy for the province. UNMIK's presence in Kosovo, however, was technically a perpetuation of the sovereignty breach NATO had created, as the UNSG's Special Envoy on Kosovo's final status later acknowledged:

> In unanimously adopting resolution 1244 (1999), the Security Council responded to Milosevic's actions in Kosovo *by denying Serbia a role in its governance*, placing Kosovo under temporary United Nations administration and envisaging a political process designed to determine Kosovo's future. The combination of these factors makes Kosovo's circumstances extraordinary.[131]

Yannis invoked mythology to describe the foreboding task UNMIK faced, describing it as being forced to "navigate skillfully between the Scylla of independence and the Charybdis of Yugoslav sovereignty."[132] UNMIK was, in essence, charting new territory.

Sovereignty is the basis on which states interact, but as a concept it is meaningful only by consensus. Like rules of etiquette at a formal dinner, meaning is attached to "sovereignty" only by those who observe it. Although the practice of intervening on behalf of at-risk civilians has gained acceptance in recent decades in the case of willing-but-weak states unable to exercise governance, attacking a state whose government is the

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[131] UN SC, "Letter Dated 26 March 2007 from the Secretary-General Addressed to the President of the Security Council," 26 March 2007, http://documents-dds-ny.un.org/doc/UNDOC/GEN/N07/272/23/pdf/N0727223.pdf, 4 (italic mine).

[132] Yannis, *Kosovo under International Administration*, 27.

source of oppression is still largely viewed as a dangerous precedent to be undertaken only as a last resort. The Kosovo case, then, demonstrates of how the concept of sovereignty is subject to redefinition.

If the meaning of sovereignty can be altered, by what methods, and according to what criteria, does such alteration occur? This chapter explores the processes by which sovereignty is given meaning. It asserts that rather than having one mutually-agreed to definition, sovereignty instead can be considered an "essentially contested concept."[133] It then examines a specific redefinition of sovereignty as a function of governance. This examination is particularly relevant to the case of Kosovo because the UNMIK-created Provisional Institutions of Self-Government (PISG) represent a test case for such a definition. If one accepts that sovereignty is subject to redefinition, and that a new definition in terms of governance is valid, then it follows that UNMIK's implementation of the PISG created the basis for recognition of a new, sovereign entity within Kosovo.

B. COMPETING PRINCIPLES: SOVEREIGNTY

1. Sovereign States

The state is the basic building block of the current international system. It is the dominant referent object—the primary "currency," in a sense, in which the international relations theorist plies his or her trade. In his groundbreaking work *International Law*, Lassa Oppenheim wrote that a state "is in existence when a people is settled in a country under its own Sovereign Government."[134] Oppenheim continued by parsing out the four components of his definition: the *people*, "who live together as a community"; the *country*, or the physical geographic region "in which the people has settled down"; the *Government*, composed of "representatives of the people" who "rule according to the law of the land"; and finally the condition the government be *Sovereign*, which Oppenheim defined as "supreme authority, an authority which is independent of any other earthly

[133] W. B. Gallie, "Essentially Contested Concepts," *Proceedings of the Aristotelian Society*, n.s., 56 (1955-56).

[134] Lassa Oppenheim, *International Law: A Treatise*, 2 vols. (London: Longman, 1905-6), 1:100.

authority."[135] Oppenheim clearly influenced the drafters of the 1933 Montevideo Convention on Rights and Duties of States, which declares in its Article I:

> The State as a person of international law should possess the following qualifications: (a) a permanent population; (b) a defined territory; (c) government; and (d) capacity to enter into relations with other states.[136]

Regarding Oppenheim's last component of "supreme authority," Max Weber elaborated that a state is "a human community that (successfully) claims the *monopoly of the legitimate use of physical force* within a given territory."[137] Oppenheim's use of "earthly authority" and Weber's invocation of "the legitimate use of force" highlight elements important to the evolution of sovereignty as a concept, for as the following passages will make clear, it is only recently, relatively speaking, that sovereignty has *not* been predicated on the notion of *divine* authority—in the absence of which the use of force was deemed decidedly *il*legitimate.

2. Sovereignty: The Westphalian System?

The concept of state sovereignty is widely associated with the Peace of Westphalia that ended the Thirty Years' War in Europe:

> Sovereignty, as a concept, formed the cornerstone of the edifice of international relations that 1648 raised up. Sovereignty was the crucial element in the peace treaties of Westphalia, the international agreements that were intended to end a great war and to promote a coming peace.[138]

"Sovereignty" as a concept was first introduced into academic discourse by Jean Bodel seven decades before Westphalia,[139] and expanded upon by Emer de Vattel eleven

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[135] Oppenheim, *International Law*, 1:100–1.

[136] Convention on Rights and Duties of States, 26 December 1933, 165 L.N.T.S. 19, cited in Hannun, *Autonomy*, 16.

[137] H. H. Gerth and C. Wright Mills, eds., *From Max Weber: Essays in Sociology* (New York: Oxford University Press, 1946), 78.

[138] Mark W. Janis, "Sovereignty and International Law: Hobbes and Grotius," in Ronald St. J. Maconald, gen. ed., *Essays in Honor of Wang Tieya* (Dordrecht: Martinus Nijhoff, 1994), 393.

[139] Stéphane Beaulac, *The Power of Language in the Making of International Law: The Word* Sovereignty *in Bodin and Vattel and the Myth of* Westphalia (Dordrecht: Martinus Nijhoff, 2004), 104.

decades after.[140] In the millennium preceding Westphalia, Church, Empire, and principality had competed for power within a complex hierarchy. The Roman Catholic Church and the Holy Roman Empire had been the main seats of European authority since the fifth-century "two swords" doctrine of Pope Gelasius I.[141] Gelasius envisioned the "secular sword," *regnum*, as wielded by the emperor—at the time, Anastisius—while the pope himself held the more authoritative "sacred sword," *sacerdotium*, in accordance with Christ's conferral upon Saint Peter the power to "bind and loose"[142]—divine authority over the legitimate use of force, indeed.

The Westphalia accords "legitimated the right of sovereigns to govern their peoples *free of outside interference*, whether any such external claim to interfere was based on *political, legal or religious principles*."[143] Whether the accords actually established the modern nation-state is the subject of debate; scholar Stephen Krasner, for example, contends "Westphalia was first and foremost a new constitution for the Holy Roman Empire." Conversely, Stéphane Beaulac asserts that by rendering all states equal in legal stature among their peers, the Peace of Westphalia formed the basis for modern international law that has prevailed for over three centuries.[144] Regardless of sovereignty's true origins, its role in modern international relations remains preeminent: when constructing the UN after World War II, the major powers explicitly predicated the organization's existence on "the principle of the sovereign equality of all its Members."[145] This article would become the focus of intense debate as the members of the international community sought a unified approach for responding to the crisis in Kosovo.

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[140] Beaulac, *The Power of Language*, 129–30.

[141] Jean Bethke Elshtain, *Sovereignty: God, State, and Self* (New York: Basic Books, 2008), 11.

[142] Elshtain, *Sovereignty*, 11–12.

[143] Janis, "Sovereignty," 393 (italics mine).

[144] Beaulac, *The Power of Language*, 69.

[145] *Charter of the United Nations*, 26 June 1945, TS no. 993, 145 UKTS 805, Can TS no. 7, Chapter I, Article 2, cited in Beaulac, *The Power of Language*, 69 (footnotes.)

3. Dimensions of Sovereignty

Beaulac described *internal* and *external* dimensions to sovereignty.[146] The internal dimension concerns the government's right to deal with domestic affairs, while the external dimension concerns its ability to interact with other states on equal legal footing. Thus, Weber was referring to sovereignty's internal dimension in his definition of the state provided above.

The concept of sovereignty and its two dimensions is particularly germane to the case of Kosovo and Serbia. Over the course of five Security Council resolutions issued throughout the Kosovo crisis, from March of 1998 through June of 1999, the United Nations consistently reaffirmed "the commitment of all Member States" to respect Yugoslavia's sovereignty.[147] But to which dimension of sovereignty was the Security Council referring? Those states advocating intervention under the aegis of UN Charter Article VII, which addresses the UN's responsibilities in countering "acts of aggression,"[148] were focusing primarily on the external dimension, while those expressing reservations or outright objections were grounded in the internal dimension. This debate reflected an ongoing wider discussion within both academic and political milieus.

4. Sovereignty as an "Essentially Contested Concept"

While it is true that sovereignty has served as "the cornerstone of international rhetoric about state independence and freedom of action,"[149] over the preceding century

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[146] Beaulac, *The Power of Language*, 190.

[147] UN SC, Resolution 1160, "On the Letters from the United Kingdom (S/1998/223) and the United States (S/1998/272)," 31 March 1998, http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N98/090/23/PDF/N9809023.pdf; Resolution 1199, "On the situation in Kosovo (FRY)," 23 September 1998, http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N98/279/96/PDF/N9827996.pdf; Resolution 1203, "On the situation in Kosovo," 24 October 1998, http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N98/321/21/PDF/N9832121.pdf; Resolution 1239, "On Security Council Resolutions 1160 (1998), 1199 (1998) and 1203 (1998)," 14 May 1999, http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N99/143/75/PDF/N9914375.pdf ; Resolution 1244.

[148] *Charter of the United Nations*, Chapter VII, Article 39.

[149] Hurst Hannum, *Autonomy, Sovereignty, and Self-Determination: The Accommodation of Conflicting Rights* (Philadelphia: University of Pennsylvania Press, 1990), 14.

scholars have increasingly sought to revisit the Westphalian concept of sovereignty. In 1956 scholar W.B. Gallie introduced the concept of the "essentially contested concept," by which he asserted some concepts—such as art, democracy, or Christian tradition—are subject to competing definitions by different groups, each using different terms in order to support its respective position or point of view.[150] Gallie offered discrete criteria for determining whether a concept is "essentially contested,"[151] asserting in summary, "to use an essentially contested concept means to use it against other uses and to recognize that one's own use of it has to be maintained against these other uses."[152]

Considerable evidence exists that "sovereignty" is an essentially-contested concept; recalling Gallie's above summary, for instance, may explain why "the most common response to initiatives that seek to limit a state's action is that such initiatives constitute an impermissible limitation on that state's sovereignty."[153] Writing a half-century before Gallie, Oppenheim opined:

> [T]here exists perhaps no conception the meaning of which is more controversial than that of sovereignty. It is an indisputable fact that this conception, from the moment when it was introduced into political science until the present day has never had a meaning which was universally agreed upon.[154]

In the 1955 *Eighth Edition* to Oppenheim's seminal work, Hersch Lauterpacht (the then-late Oppenheim's colleague and editor) acknowledged the challenges to sovereignty that had emerged after two World Wars:

> The question which is now confronting the science of law and politics is how far sovereignty as it presents itself from the point of view of the internal law of the State, namely as the highest, underived power and as

[150] Gallie, "Essentially Contested Concepts," 168.

[151] Gallie, "Essentially Contested Concepts," 171–2.

[152] Gallie, "Essentially Contested Concepts," 172.

[153] Hannum, *Autonomy, Sovereignty, and Self-Determination*, 14.

[154] Oppenheim, *International Law*, 1:103, quoted in Hannum, *Autonomy, Sovereignty, and Self-Determination*, 14.

> the exclusive competence to determine its jurisdictional limits, is compatible with the normal functioning and development of International Law and organization.[155]

Here Lauterpacht, whose words could easily have been written in the summer of 1998, is clearly addressing tensions between sovereignty's internal dimension ("the internal law of the State") and its external one ("International Law").

Beaulac makes use of the meta-linguistic device known as "Ogden & Richards' Triangle"[156] to describe language formation informs the present discussion (Figure 1.) The triangle's three vertices are the *symbol*, the *thought or reference*, and the *referent.* The *symbol* is a word: a unique element of a given lexicon.[157] The *thought or reference* is the intangible, mental concept with which the *symbol* is associated; this concept exists solely within the realm of human thought.[158] The *referent* is the actual object—concrete or abstract, tangible or ethereal—which the *symbol* seeks to describe.[159]

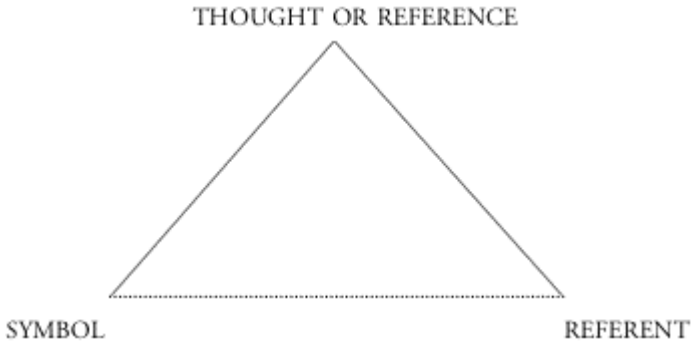

Figure 1. Ogden & Richard's Triangle (from Beaulac, *Power*, 22.)

The two sides of the triangle that terminate at the *thought or reference* vertex are solid because a direct relationship exists between this vertex and the *symbol* and *referent*

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[155] Lassa Oppenheim, *International Law: A Treatise*, ed. H. Lauterpacht, 8th ed., 2 vols. (London: Longmans, Green, and Co., 1955), 1:122.

[156] C. K. Ogden and I. A. Richards, *The Meaning of Meaning: A Study of the Influence of Language upon Thought and of the Science of Symbolism*, 2nd ed. (London: Kegan Paul, 1927), 10, cited in Beaulac, *The Power of Language*, 22.

[157] Beaulac, *The Power of Language*, 22.

[158] Beaulac, *The Power of Language*, 22.

[159] Beaulac, *The Power of Language*, 22.

vertices, respectively. For example, when one holds a baseball (the *referent*), one generates a mental representation of the ball (the *thought or referent*) while simultaneously saying (or thinking) the word, "baseball" (the *symbol*.) The side connecting the *symbol* and *referent* vertices, however, is drawn with a broken line; as Beaulac observes, "words and reality are not connected directly, but only indirectly around the two sides of the triangle, that is, through the cognitive process."[160] Thus, a one-to-many or many-to-one mapping of *symbol* to *referent* may apply. For example, a *referent* that would map to the *symbol* "soccer ball" in the United States would instead map to the *symbol* "football" in the rest of the world; conversely, outside the United States the *symbol* "football" would map to a spherical *referent* in a leather livery of black pentagons bordered by white hexagons, while within it would map to a prolate spheroid *referent* bound in brown pigskin.

Applying Beaulac's methodology to the *referent* of "sovereignty" reveals the linguistic mechanics of its essentially-contested nature: while the *symbol* vertex is fixed, the *referent* and *thought or reference* vertices—what sovereignty actually is, and how one mentally represents it, respectively—are not. Joseph Camilleri describes three approaches to contesting the dominant concept of sovereignty as a function of the state: *divisible* sovereignty, which involves "the sharing of legal power between the state ... a sub-state ... [,and/or] international institution[s];"[161] *relational* sovereignty, "which seeks to connect the exercise of sovereign authority with—and in a sense makes it dependent upon—the satisfactory performance of certain functions;"[162] and *post-statist* sovereignty, in which sovereignty rests not with the state but with "a plurality of groups, communities and associations, indeed in the disparate elements that comprise civil society."[163]

The preceding passages demonstrate that sovereignty is an "essentially contested concept;" that is, an ongoing intellectual debate exists which seeks to map the *symbol*

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[160] Beaulac, *The Power of Language*, 22.

[161] Joseph Camilleri, "Sovereignty Discourse and Practice – Past and Future," in Trudy Jacobsen, Charles Sampford, and Ramesh Thakur, eds., *Re-envisioning Sovereignty: The End of Westphalia?* (Burlington: Ashgate, 2008), 40.

[162] Camilleri, "Sovereignty Discourse and Practice," 41.

[163] Camilleri, "Sovereignty Discourse and Practice," 42.

"sovereignty" to alternative *referents* via changes to the *thought or reference*. The following passages will examine specific criteria, relevant to the present study of Serbia and Kosovo, by which changes to the *thought or reference* may occur. The first passage describes how the concept of sovereignty may be circumscribed via competition with that of self-determination, while the second explores the juxtaposition of sovereignty's *divisible* and *relational* variants with self-determination as applied to petitions for recognition by sub-state groups.

C. COMPETING PRINCIPLES: SELF-DETERMINATION

Closely related to the concept of sovereignty—and often juxtaposed with it—is that of self-determination. The Merriam-Webster dictionary defines this term as "determination by the people of a territorial unit of their own future political status."[164] Scholar David Fromkin attributes the popularity of this phrase—and perhaps its etymology as well—to Woodrow Wilson.[165] Describing self-determination as "'an imperative principle of action which statesmen will henceforth ignore at their peril,'"[166] President Wilson later heeded the warnings of his advisors and moderated his advocacy by stipulating application of this principle should not "'[introduce] new or [perpetuate] old elements of discord and antagonism that would be likely ... to break the peace'"—which, as Fromkin points out, is exactly what self-determination does.[167]

Fromkin's observation speaks to an important disconnect: the geographic boundaries of sovereignty's political unit of measurement—the state—rarely align perfectly with those of the societies—the nations—which comprise state population.[168] (Recall that Oppenheim uses the terms "country" to describe the geo-political boundary

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[164] Merriam-Webster Online, "Self-determination," http://www.merriam-webster.com/dictionary/self-determination (accessed 1 Oct 2010).

[165] Fromkin, *Kosovo Crossing*, 127.

[166] Fromkin, *Kosovo Crossing*, 127.

[167] Fromkin, *Kosovo Crossing*, 127–8. Fromkin quotes Wilson's Secretary of State, Robert Lansing: "'The phrase,' [Lansing] wrote, 'is simply loaded with dynamite. It will raise hopes which can never be realized. It will, I fear, cost thousands of lives.'" Lansing's quote is cited from Robert Schaeffer, *Warpaths: The Politics of Partition* (New York: Hill & Wang, 1990), 51.

[168] Barry Buzan, Ole Wæver, Jaap de Wilde, *Security: A New Framework for Analysis* (Boulder: Lynne Rienner, 1998), 119.

and "people" to describe the population that boundary inscribes.)[169] A host of natural and man-made conditions, such as war, occupation, famine, disease, economic deprivation, and persecution, have made large expatriate and immigrant communities alike a common phenomenon. Such was the case of Kosovo for the past 200 years,[170] where the ethnic Albanians were both a majority (within the province) and a minority (within greater Serbia.)

What, then, is to be done when conflict arises between the state's prerogatives under sovereignty, on the one hand, and a given segment of the population's aspirations of self-determination on the other, as in the case of Serbia and Kosovo? History and conventional wisdom alike have proven unkind to the latter. The American Confederacy and Northern Ireland are but two notable examples of attempts at self-determination that were suppressed by force of arms. An example that lends itself well to the Kosovo case is that of the Aaland Islands in the Baltic Sea. Finland's claim to the islands was reaffirmed upon its independence from Russia in 1917 despite the fact that, given the choice, most Aalanders would prefer to join with Sweden instead.[171] Substituting Yugoslavia for Russia, Kosovo for the Aaland Islands, and Albania for Sweden generates a superficial analog to the present subject, but the two cases had remarkably dissimilar outcomes. In considering the preferences of the Aalanders, the League of Nations valued sovereignty over self-determination:

> To concede to minorities, either of language or religion ... the right of withdrawing from the community to which they belong, because it is their wish or their good pleasure, would be to destroy order and stability within States and to inaugurate anarchy in international life; it would be to uphold a theory incompatible with the very idea of the State as a territorial and political unity.[172]

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[169] Oppenheim, *International Law*, 100.

[170] Fromkin, *Kosovo Crossing*, 109.

[171] Hannum, *Autonomy, Sovereignty, and Self-Determination*, 29.

[172] The Aaland Islands Question, *Report Presented to the Council of the League by the Commission of Rapporteurs*, League of Nations Doc. B.7.21/68/106 (1921), 27, quoted in Hannum, *Autonomy, Sovereignty, and Self-Determination*, 29–30.

Picking up this same thread after World War II, the UN considered self-determination mainly within the narrow context of post-colonialism.[173] Although the UN General Assembly adopted two international covenants on human rights in 1966 that asserted the right of self-determination of "all peoples,"[174] Hannun notes that "most countries either have not specifically addressed [the article on self-determination] or have done so in such general terms that nothing is added to an understanding of its content."[175] Although the 1970 Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations stated "Every state has the duty to promote ... realization of the principle of equal rights and self-determination," it also contained the reminder "The territorial integrity and political independence of the State are inviolable."[176] Considering Kosovo's successful bid for independence, it is apparent that either the sovereignty/self-determination calculus itself, or the circumstances under which such calculus is applied, have changed in the interim.

D. READY FOR STATEHOOD? KOSOVO'S GOVERNANCE CAPACITY

1. Charging the Conceptual Breach

If sovereignty is indeed susceptible to redefinition, and if self-determination provides, at least notionally, a metaphysical lever for widening the resulting breach in the conception of sovereignty, what explanatory power does this conceptual change offer with regard to Kosovo's independence? Anne-Marie Gardner asserts that sub-state groups (such as the LDK) which claim to represent a specific segment of a state's

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[173] Hannum, *Autonomy, Sovereignty, and Self-Determination*, 34.

[174] International Covenant on Economic, Social and Cultural Rights, adopted 16 Dec 1966, entered into force 3 Jan 1976, 999 U.N.T.S. 3; International Covenant on Civil and Political Rights, adopted 16 Dec 1966, entered into force 23 May 1976, 999 U.N.T.S. 171; cited in Hannum, *Autonomy, Sovereignty, and Self-Determination*, 41.

[175] Hannum, *Autonomy, Sovereignty, and Self-Determination*, 41.

[176] United Nations General Assembly, Resolution 2625, "Declaration on Principles of International Law Concerning Friendly Relations and Co-operation among States in Accordance with the Charter of the United Nations," 24 October 1970, 121, cited in Hannum, *Autonomy, Sovereignty, and Self-Determination*, 34.

population (such as the Kosovar Albanians) are held accountable to "international standards of democratic governance."[177] Gardner claims:

> When self-determination claimant groups have internalised human rights and democratic ideals, they are more likely to receive international support for their claim in the form of empowerment (efforts to acknowledge or promote self-governance).... Groups receive more international political support if they display the capacity for liberal democratic rule: representation, tolerance for minorities, and an emphasis on peaceful conflict resolution.[178]

Gardner's assertion combines Camilleri's concepts of *divisible* and *relational* sovereignty. Here sovereignty is *divisible* because it is shared between Serbia, the Provisional Institutions of Self-Government in Kosovo, and the international community under the aegis of UNMIK. It is *relational* because the degree to which the PISG's sovereignty is recognized by external actors is a function of its governance capacity. This implies that UNMIK, EU, and OSCE efforts to build democratic, rule-of-law institutions within Kosovo increased the likelihood that Kosovo would eventually declare independence. It also implies these efforts increased the likelihood that the member states most dominant in shaping the institution-building policy for administering Kosovo would recognize the province's independence once declared. If Gardner's thesis is correct, then the earlier question concerning the weighing of sovereignty against self-determination is answered, with the balance tipping in favor of the latter. Provided the Kosovar Albanian leadership can be shown to have demonstrated sufficient governance capacity to merit recognition of Kosovo's independence, this approach could serve as a basis for argument in support of the institutional explanation.

2. Rebuilding Kosovo: An Institutional Approach

Under UNSCR 1244, UNMIK became the principle organization in a multi-agency structure for administering Kosovo. UN Secretary-General Kofi Annan appointed French Health Minister Bernard Kouchner as the Special Representative of the

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[177] Gardner, "Beyond Standards before Status," 531.

[178] Gardner, "Beyond Standards before Status," 532.

Secretary-General (SRSG) in Kosovo.[179] In this role, Kouchner was the senior UN official in Kosovo and was responsible for overall UNMIK operations. UNMIK established a four-pillar construct divided into functional components. Pillars 1 and 2, "Police and Justice" and "Civil Administration" respectively, were administered directly by UNMIK.[180] The former included the Kosovo Police Service, an organic unit to supplement and eventually replace UNMIK's international police presence known as CIVPOL. Pillar 3, "Democracy and Institutions," was led by OSCE, while Pillar 4, "Economic Development and Reconstruction," fell under the EU.[181] Security was provided by NATO's KFOR in accordance with Resolution 1244.[182] Russia, not wanting to abandon its Serb allies to the western alliance, also contributed troops.[183]

UNMIK also created the PISG as an interim government consisting of executive, legislative, and judicial branches.[184] PISG members were notionally elected by the Kosovo populace to represent their interests, but overall decision authority rested with the SRSG.[185] This arrangement allowed an indigenous governing body to gain experience in

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[179] UNMIK, "Special Representative of the Secretary-General," http://www.unmikonline.org/srsg/former.htm#1.

[180] Ioannis Natsis, "UN in Kosovo: 1999-2005: An Assessment of International Administration," *Hellenic Foundation for Defence and Foreign Policy Postgraduate Notes,* Series 2006, no. 2: 3. Pillar 1, originally established as "Humanitarian Issues," became "Law and Justice" in 2001 when the Departments of Justice and Police were transferred from Pillar 2 (see United Nations Interim Mission in Kosovo, "Pillar 1: Police and Justice," Presentation Paper, 2004, http://www.unmikonline.org/justice/documents/PillarI_Report_June04.pdf , 3.) The EULEX Kosovo Mission assumed operation of Pillar 1 in 2008 (see European Union, Council, "On the European Union Rule of Law Mission in Kosovo, EULEX KOSOVO," 4 February 2008.)

[181] Natsis, "UN in Kosovo." Pillar 4 was dissolved in 2008 (see United Nations Interim Mission in Kosovo, "European Union Pillar End of Mission Report," 2008, http://www.unmikonline.org/archives/euinkosovo/upload/eu_union_pillar_1999_2008%2015%20sep%202008.pdf .)

[182] UN SC Resolution 1244, Annex 2, para. 4.

[183] North Atlantic Treaty Organization, "Agreed Points on Russian Participation in KFOR," 18 June 1999, http://www.nato.int/kosovo/docu/a990618a.htm. In a move that embarrassed a caught-off guard NATO, Russian troops arrived at the Priština airport hours before NATO forces. See "Political Fallout: The Future of International Politics in the Wake of Kosovo," *Jane's Defence Weekly* 32, no. 3 (1999): 22.

[184] UNMIK, "About Us--Kosovo Structure," http://www.unmikonline.org/archives/euinkosovo/uk/about/about_structure.php.

[185] UNMIK, "About Us." The UNMIK website contains the following disclaimer: "The powers and responsibilities of the PISG do not include certain reserved powers and responsibilities that remain exclusively in the hands of the Special Representative of the Secretary-General."

democratic governance and earn local credibility while avoiding the appearance that UNMIK was overtly positioning Kosovo for independence.

3. Standards for Kosovo

Fortunately for the purposes of this study, a mechanism for evaluating Kosovo's progress in building its capacity for governance was provided by UNMIK in the form of "Standards for Kosovo."[186] Originally called "Standards before Status,"[187] they consist of eight broad criteria categories based upon Western precepts of liberal democracy: implementing functioning democratic institutions and the rule of law; guaranteeing freedom of movement and rights returns and reintegration; reforming the economy; respecting property rights; constructing a dialogue with Belgrade; and constituting and maintaining the Kosovo Protection Corps.[188] Following the March 2004 riots during which Kosovar Albanians attacked Serbs and other minorities within Kosovo, UNMIK issued a companion document for the standards, the Kosovo Standards Implementation Plan (KSIP,)[189] which included a notional timeframe for implementing the standards.

Various resources are available for evaluating the success of the "Standards for Kosovo" process and—by extension, according to Gardner's premise—the feasibility of the institutional explanation for Kosovo's independence. As part of his duties as the senior UN official in Kosovo, the SRSG makes periodic reports on the progress of standards implementation. Called "technical assessments," these reports are, in essence, self-evaluations. Independent evaluations from peer organizations such as the European Union are also available, as are critical analyses from non-governmental organizations.

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[186] UNMIK, "Standards for Kosovo," 10 December 2003, http://www.unmikonline.org/standards/docs/leaflet_stand_eng.pdf. Also see "Standards for Kosovo: What Are the Standards?" http://www.unmikonline.org/standards.

[187] UNMIK, Office of the Strategy Coordinator, "The Kosovo Standards Process 2003-2007," 20 April 2007, http://www.unmikonline.org/standards/docs/KSP2003-2007.pdf. According to this document, the original moniker "had proved to be an extremely unpopular slogan in local terms."

[188] UNMIK, "Standards for Kosovo."

[189] UNMIK, "Kosovo Standards Implementation Plan," 31 March 2004, http://www.unmikonline.org/pub/misc/ksip_eng.pdf.

E. MEETING STANDARDS? EVALUATING THE INSTITUTIONAL EXPLANATION

The most relevant time frame for evaluating the progress of standards implementation in Kosovo is the one immediately preceding the erstwhile province's February 2008 declaration of independence. UN Secretary-General Ban Ki-moon released in January 2008 what would be his final report on the interim administration mission in Kosovo before the declaration. The report included as an appendix SRSG Joachim Rücker's Technical Assessment of standards implementation. Although the report laments the low voter turnout among Kosovo's Serbs and their "[dependence] on parallel structures for the provision of basic services, which are supported by the authorities in Belgrade,"[190] overall it strikes a positive tone. It lists specific accomplishments in each criteria category, and Secretary-General Ban writes in his observations that "[t]he steady progress by Kosovo's Provisional Institutions in the implementation of standards is encouraging and should be further accelerated."[191]

Secretary-General Ban's assessment was not shared by all observers of the situation in Kosovo. The Serbian interior minister released separate but equally scathing commentaries on both the SG report[192] and the SRSG Technical Assessment,[193] refuting each point for point. These documents attributed the lack of Serb participation in the PISG itself and PISG-sponsored activities to security concerns stemming from the March 2004 riots.

Although the Serbian documents cannot be considered a truly impartial appraisal, they reference a November 2007 EU report which corroborated the Serb claims regarding

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[190] UN SC, "Report of the Secretary-General on the United Nations Interim Administration Mission in Kosovo," 3 January 2008, http://www.unmikonline.org/UNMIKONLINE2009/misc/docs/sc-reports/S-2007-768.pdf, 8.

[191] UN SC, "Report of the Secretary-General on the United Nations Interim Administration Mission in Kosovo," 8.

[192] Republic of Serbia, Ministry of Foreign Affairs, "Serbian Comments on Report of UN SG on UN Interim Administration in Kosovo," 15 January 2008, http://www.msp.rs/Policy/Priorities/KIM/comment_e.pdf.

[193] Republic of Serbia, Ministry of Foreign Affairs, "Serbian Comments on Report of UN SG on UN Interim Administration in Kosovo – Annex," 15 January 2008, http://www.msp.rs/Policy/Priorities/KIM/anex_e.pdf.

the PISG's progress and Serb security concerns.[194] The EU report noted the Kosovo Parliament's "administrative and policy-making capacities remain limited,"[195] and that Kosovo's judicial system "remains weak" and "made little progress during the reporting period."[196] It also lamented the prominence of corruption and the PISG's inability to promote and enforce human rights.[197] The phrase, "[o]verall, there has been little progress" appears frequently throughout the report's text.

Additional evidence indicates the "Standards for Kosovo" had not been met when Kosovo declared independence, especially where the rule of law is concerned. A Human Rights Watch report issued in March 2008, one month after Kosovo declared independence, called the Kosovo justice system "inadequate" and "deeply divided between its national and international elements."[198] Of eleven recommendations HRW had offered in the wake of the March 2004 riots, none had been fully implemented; six had been partially implemented and five had not been implemented to any appreciable degree.[199] A *Journal of Democracy* article noted that illegal occupations of Serb houses by Kosovar Albanians is often facilitated by Albanian leaders.[200]

The preceding accumulation of evidence shows that Kosovo's institutions, while established in form, remained immature in function at the time of Kosovo's independence. As the *Journal of Democracy* article stated, "While the structures of democracy have been established, and many of its practices entrenched, key features

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194 Commission of the European Committees, "Kosovo under UNSCR 1244 2007 Progress Report," 6 November 2007, http://ec.europa.eu/enlargement/pdf/key_documents/2007/nov/kosovo_progress_reports_en.pdf, 21.

195 Commission of the European Committees, "Kosovo under UNSCR 1244," 8.

196 Commission of the European Committees, "Kosovo under UNSCR 1244," 13.

197 Commission of the European Committees, "Kosovo under UNSCR 1244," 14.

198 Human Rights Watch, "Kosovo Criminal Justice Scorecard," 27 March 2008, http://www.hrw.org/sites/default/files/reports/kosovo0308_1.pdf, 1.

199 Human Rights Watch, "Kosovo Criminal Justice Scorecard," 4.

200 Oisín Tansey, "Kosovo: Independence and Tutelage," *Journal of Democracy* 20, no. 2 (April 2009): 162.

associated with genuine democratic rule are missing."[201] Worse, as the Serbian Ministry of Foreign Affairs documents point out, the UN reports offer only anecdotal, descriptive evidence of progress—no metrics are used to benchmark institutional performance quantitatively.[202]

If a sub-state group's capacity for governance is indeed a prerequisite for it to receive international support in its bid for independence, then the Kosovo government's relative immaturity in this area should have precipitated warning signals when its intent to declare independence became apparent. That this was not the case undermines the institutional explanation for Kosovo's independence. Returning to the *motive-means-opportunity* theme, the most that can be said for the institutional explanation is that Kosovo's immature institutions provided a necessary, but not sufficient, condition for independence. Although they provided some governance capacity for the newly-formed state—and thus a means to independence—this capacity was insufficient in and of itself to merit encouragement or recognition of independence.

[201] Tansey, "Independence and Tutelage," 161.

[202] Republic of Serbia, "Comments on Report – Annex," 5.

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IV. UNINTENDED CONSEQUENCES REDUX: A SYSTEMIC EXPLANATION

A. INTRODUCTION

Having demonstrated that the historical and institutional explanations describe, respectively, potential motive and means for Kosovo's independence, this study now examines the systemic explanation for evidence of opportunity. This chapter details how the perceptions and motivations of each main actor involved in the international intervention and administration of Kosovo affected the approaches to resolving the status issue. It posits that most of the Western powers, the United States in particular, did not appreciably distinguish between the Milošević regime in Belgrade and Serbian security forces in Kosovo on one hand and Kosovo's civilian Serb population on the other. As a consequence, UNMIK and KFOR were more disposed, on the whole, to accommodate Kosovar Albanian expectations at the expense of Kosovo's Serbs, thus contributing to the perception that the international community had effectively, if unintentionally, partitioned Kosovo from Serbia.

The "Standards before Status" policy, which sought to counter the perception of Kosovo as a *de facto* state by deferring any discussion of the province's final status until it had achieved at least a nominal capacity for governance, exacerbated discontent among both Albanians and Serbs alike. Rather than motivating more moderate elements of each camp to work, if not together, at least toward the common goal of improved living conditions, it instead incentivized each side's hardliners to further polarize its respective constituency. The policy thus had the unintended consequence of stunting growth and reform in the political and economic arenas, causing mounting frustrations that were especially acute among Kosovar Albanians. These frustrations boiled over in March 2004, when anti-minority riots shrouded the province in widespread violence.

The riots represented a watershed moment. Although Kosovo's Albanians squandered over the course of two turbulent days the goodwill they had amassed over decades as the victims of Serb oppression, they had crossed their Rubicon: the fragile

peace that had held for almost five years was shattered and could not be cobbled back together. The failures of the international security forces to protect Kosovo's minorities convinced Serbs both within and outside Kosovo that Serbs could not safely live in an Albanian-ruled Kosovo. The riots also shocked Kosovo's international administrators out of their false sense of security.[203] Sensing that its window of opportunity was quickly closing, UNMIK attempted to fast-track specific elements of the Standards process while simultaneously addressing the Status issue in earnest for the first time. Almost inexorably, the UN increasingly came to hold that independence was the only feasible solution. Thus, the implementation of international stewardship provided systemic opportunity for Kosovo to declare its independence, and one provision of Resolution 1244—autonomy for Kosovo—was achieved at the expense of another—safeguarding the territorial integrity of Yugoslavia.

B. PERCEPTIONS AND MOTIVATIONS OF THE PEACEMAKERS: THE SERBS AS THE "BAD GUYS"

One manner of evaluating an organization's performance is to examine its perspective of the environment as well as the motivations which govern its actions. Any analysis of the systemic explanation for Kosovo's independence therefore benefits from insight into the perceptions and motivations of those responsible for administering the province. Specifically, understanding what those charged with nurturing governance and providing security within Kosovo held true about the environment within which they operated is of significant utility for determining why a given course of action was pursued. In this way, these motivations and perceptions can be linked to the outcomes—successful or otherwise—of the decisions they helped engender.

There is ample evidence that Milošević and his Serbian security forces were viewed by American observers as the main antagonists within the Balkans. This reputation was certainly well deserved given the extensive catalog of well-documented abuses and atrocities attributed to them during the war in Bosnia, especially the 1995

[203] Natsis, "UN in Kosovo," 11. Natsis writes the riots "constituted a violent 'wake up' call for the policymakers."

massacre of Muslims within the supposed UN "safe haven" of Srebrenica which "helped tip the balance within the [Clinton] Administration in favor of intervention."[204] The failure at Srebrenica was a UN failure and therefore a collective failure that quickly became a grim metaphor for Western inaction in the Balkans. To Richard Holbrooke, the Assistant Secretary of State for European Affairs during the Bosnia war, such inaction represented "the greatest collective security failure of the West since the 1930s."[205] Holbrooke later wrote, "'For sheer intensity, nothing in the war matched, or would ever match, Srebrenica. The name would become part of the language of horrors of modern war, alongside Lidice, Pradour, Babi Yar and the Katyn Forest.'"[206] The excesses of the Serb military and paramilitary forces in Bosnia engendered a strident backlash in the halls of Washington and Brussels against all things Serbian—a backlash that appears to have extended to Serb civilians who did not participate in the violence, as demonstrated by international reaction to a Croatian offensive against Serb civilians in Croatia's Krajina region less than one month after the Srebrenica massacre:

> By that time, however, it was hard for the world to see Serbian civilians themselves as victims needing protection. "There is a sense in Western capitals that if something happens to the Krajina Serbs, they deserve it," said one Western official less than a week before the exodus of two hundred thousand from Krajina. Home to a largely Serbian population for four hundred years, Krajina was swept off the map in a mere forty-eight hours.[207]

Holbrooke later served as President Clinton's special envoy to the Balkans during the Kosovo crisis and was a forceful presence during the pre-Allied Force dialogue with

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[204] Ronald D. Asmus, *Opening NATO's Door: How the Alliance Remade Itself for a New Era* (New York: Columbia University Press, 2002), 126.

[205] Richard C. Holbrooke, "America: A European Power," *Foreign Affairs* 74, no. 2 (March/April 1995): 40, quoted in Asmus, *Opening NATO's Door*, 21.

[206] Richard C. Holbrooke, *To End a War* (New York: Random House, 1998), 70, quoted in Asmus, *Opening NATO's Door*, 126.

[207] Ejub Štitkovac, "Croatia: the First War," in Jasminka Udovički, James Ridgeway, eds., *Burn this House: the Making and Unmaking of Yugoslavia* (Durham: Duke University Press, 1997), 168. The quote from the unidentified "Western official" is credited to Raymond Bonner, "Croats Widen Threat to Rebel Serbs, and Diplomats Seem to Acquiesce," *New York Times*, 1 August 1995, Section A.

Belgrade and Priština.[208] It should come as no surprise, then, that the specter of Bosnia cast a long shadow over the negotiations for ceasing hostilities.[209] The peace talks eventually foundered over American insistence on deployment of a NATO (vice a UN) peacekeeping force with access to the entire interior of Yugoslavia.[210] Although scholar Timothy Crawford asserts the Kosovar Albanian and Serbian factions alike shared blame for the diplomatic contortions that ultimately wrecked the tentative compromise reached in March 1999 at the French village of Rambouillet just weeks before the start of Allied Force,[211] former National Security Advisor and Secretary of State Henry Kissinger sharply disparaged the agreement's final text as "a terrible diplomatic document" and "an excuse to start bombing," stating, "Rambouillet is not a document that an angelic Serb could have accepted."[212] Former British Ministry of Defence official Lord Gilbert offered an equally blunt assessment:

> I think certain people were spoiling for a fight in NATO at that time.... If you ask my personal view, I think the terms put to Milošević at Rambouillet were absolutely intolerable; how could he possibly accept them; it was quite deliberate. That does not excuse an awful lot of other things, but we were at a point when some people felt that something had to be done, so you just provoked a fight.[213]

The insistence "that something had to be done" was a sentiment born from the carnage in Srebrenica and elsewhere in Bosnia. The murders of 45 ethnic Albanians in the central Kosovo town of Râcak by Serbian forces three months before the Rambouillet talks began, labeled "a crime against humanity" by the head of the OSCE's Kosovo

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[208] See, for example, Timothy W. Crawford, "Pivotal Deterrence and the Kosovo War: Why the Holbrooke Agreement Failed," *Political Science Quarterly* 116, no. 4 (Winter 2001-2002): 449–523.

[209] García-Orrico, "Kosovo," 122. According to Orrico, "Memories of the massacre in Srebrenica were still fresh, sparking international outrage and influencing ongoing initiatives to solve the conflict (amongst which the talks that were being held at Rambouillet, in France)."

[210] Aidan Hehir, "The Impact of Analogical Reasoning on US Foreign Policy Towards Kosovo," *Journal of Peace Research* 43, no. 1 (2006): 69.

[211] Crawford, "Pivotal Deterrence and the Kosovo War," 520–1.

[212] Henry Kissinger, *Daily Telegraph*, 28 June 1999, quoted in García-Orrico, "Kosovo," 123.

[213] Patrick Wintour, "Ex-Minister Attacks Kosovo War Tactics," *The Guardian*, 21 July 2000, 1, quoted in Hehir, "The Impact of Analogical Reasoning on US Foreign Policy Towards Kosovo," 70.

Verification Mission,[214] bore grim resemblance to atrocities committed in Bosnia. President Clinton himself invoked Bosnia in justifying the American—and hence NATO's—position:

> We learned that in the Balkans inaction in the face of brutality simply invites more brutality, but firmness can stop armies and save lives. We must apply that lesson in Kosovo, before what happened in Bosnia happens there too.[215]

Clinton's point was a salient one, and Milošević and his cronies in the Yugoslav army certainly deserved their low reputations. As Lord Gilbert stated, criticisms of the Rambouillet proceedings should in no way be construed as an apologetic for the then-ongoing Serb atrocities against the Kosovar Albanians. Nor do they negate the fact that many of the Serbian civilians in Kosovo supported and even benefitted from Milošević's anti-Albanian pogroms, even if such approval did not constitute active participation. What Rambouillet revealed was that Milošević had exhausted the patience of the NATO allies—who, external appearances aside, disagreed among each other regarding the use of force—and that their subsequent decisions were shaped at least in part through the lens of the Bosnian conflict. But this lens was imperfect. If it revealed that the past of Srebrenica was made prologue at R□cak, it blinded them elsewhere: to the threat posed to Serb civilians by the KLA[216]—or even everyday Kosovar Albanian eager to repay the wrongs visited upon them—and to the possibility that Krajina, like Srebrenica, might be repeated. Even when such dangers were recognized early on, they were dismissed according to the logic of "collective responsibility," as explained by French Foreign Minister Alain Richard in March 2000: "The Serb-speaking Kosovars are paying the price for the ethnic oppression they failed to condemn when their neighbours were dying

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[214] Barry James, "U.S. and EU Denounce Massacre in Kosovo as NATO Ponders Next Move," *International Herald Tribune*, 18 January 1999, Section 1, quoted in Hehir "The Impact of Analogical Reasoning on US Foreign Policy Towards Kosovo," 68.

[215] Associated Press, "Conflict in the Balkans," *New York Times*, 25 March 1999, section A, quoted in Hehir, "The Impact of Analogical Reasoning on US Foreign Policy Towards Kosovo," 80.

[216] In Linda Wheeler, "Marchers Strut Support for Independent Kosovo," *Washington Post*, 28 April 1999, section B, Senator Joseph Lieberman states, "Fighting for the KLA is fighting for human rights and American values."

from it."[217] Once on the ground in Kosovo, NATO's KFOR forces may well have been influenced by anti-Serb sentiments stemming from the Bosnian experience.[218] Remarks made by U.S. Secretary of State Madeleine Albright and Allied Force commander General Wesley Clark seemed to marginalize reports of reprisals against Serbs and other minorities after the NATO campaign and made it clear that, in at least some aspects, the West clearly still thought of the Serbs as the "bad guys."[219] As later events would show, it was Kosovo's Serbian civilians who—like their kinsmen from Krajina—would suffer the greatest detriment of this Western antipathy.

C. "STANDARDS BEFORE STATUS": A BLUEPRINT FOR STALEMATE?

1. Striking a Precarious Balance

After the failure of diplomacy and the termination of the subsequent NATO air campaign, the international community—under the aegis of the UN—set up shop in Kosovo. As discussed in the preceding chapter, the "Standards before Status" approach sought to build up Kosovo's governing institutions without conclusively specifying what relationship those institutions would eventually have to their counterparts in Belgrade, be it peer, associate, or subordinate. In this sense, the policy reflected not only the competing provisions of Resolution 1244, but also the underlying lack of unity within the Security Council that produced them. As will later be shown, such lack of unity would also be reflected in the structures and procedures of the various organizations responsible for implementing the provisions of Resolution 1244.

The UNMIK "Standards before Status" approach was in effect an attempt to maintain the very delicate balance between sovereignty and self-determination, as discussed in Chapter III of this study, on the fulcrum of international intervention. The longer this balance was maintained, the further the competing camps moved toward their

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[217] Alain Richard, "Kosovo: le bilan et l'avenir", *Le Monde*, 26 March 2000, quoted in Pekmez, "The Intervention by the International Community," 12–13.

[218] Rudolf Honzak, "A New KFOR: Changes for International Security in Kosovo," Student Paper, United States Army War College, Carlisle Barracks, PA, 15 March 2006, 2.

[219] William G. O'Neill, *Kosovo: An Unfinished Peace* (Boulder: Lynne Rienner, 2002), 46.

respective ends of the metaphorical lever in an attempt to tip the balance in their favor. For the Kosovar Albanians this meant backing the separatists within and without the PISG, while the Serbs gravitated toward hardliners who vowed Serbia would never be partitioned. According to a 2005 policy analysis conducted by Vance Serchuk of the American Enterprise Institute for Public Policy Research, the "Standards before Status" policy was akin to "[sweeping] under the rug the very thorny, existential dilemma about Kosovo's self-determination that was the source of the Serb-Albanian conflict in the first place."[220] "The uncertainty hanging over the region's fate," wrote Serchuk, "has permeated—and infuriated—its politics over the past six years, providing fertile ground for movements ... that rally support by rejecting compromise."[221] Alexandros Yannis, a UNMIK insider privy to the challenges his organization faced, admitted "the uncertainty over the final status of Kosovo ... exacerbated the inherent difficulties" faced by UNMIK and KFOR in dealing with rival camps bent on maximalist gains.[222]

2. The Economics of "Standards Before Status"

The deleterious effect of the "Standards before Status" approach was not confined to the civic arena. Ample evidence suggests the policy weighed like an anchor on the fragile Kosovar economy by depriving it of desperately-needed foreign investment. A 2008 House of Representatives hearing on Kosovo's declaration of independence observed that "[a]s long as Kosovo's final status remained unresolved, businesses were reluctant to invest there, and international financial institutions were unable to offer the needed monetary assistance."[223] Martti Ahtisaari, UNSG Ban Ki-moon's Special Envoy for Kosovo's future status, offered a more pointed assessment:

> Kosovo's uncertain political status has left it unable to access international financial institutions, fully integrate into the regional economy or attract the foreign capital it needs to invest in basic infrastructure and redress

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[220] Vance Serchuk, "The Future of Kosovo," American Enterprise Institute for Public Policy Research, *European Outlook* (September-October 2005): 2.

[221] Serchuk, "The Future of Kosovo," 1.

[222] Yannis, *Kosovo under International Administration*, 25.

[223] *The Balkans After the Independence of Kosovo* (statement of Rep. Howard L. Berman, Comm. Chairman).

> widespread poverty and unemployment.... Kosovo's weak economy is, in short, a source of social and political instability, and its recovery cannot be achieved under the status quo of international administration.

Considering a UN organization—UNMIK—was the lead element of the "international administration" whose utility Ahtisaari questioned, Secretary-General Ban's public release of Ahtisaari's report was a tacit admission of the UN's own shortcomings in Kosovo. Serchuk, writing in 2005, provided salient evidence of UNMIK's inefficacy:

> Until quite recently, for instance, UNMIK refused to pursue a comprehensive privatization of Kosovo's moldering industry, on the basis that it lacked the legal basis to do so. Trusteeship thus became synonymous with a stagnant, basket-case economy in the minds of the Albanian public, who were encouraged in this belief by an indigenous leadership all too happy to pass blame for the province's myriad problems to the international community.[224]

Because it was not a recognized state, Kosovo was unable to borrow from development banks the funds necessary to rebuild its war-torn facilities.[225] In the absence of international investment, member nations of the UN and the EU flooded Kosovo with financial aid to help rebuild the province's industrial, civic, and financial infrastructure. According to researchers Thomas Bernauer and Dieter Ruloff, this aid may actually have helped sustain the economic infirmity it was intended to remedy by creating "structural distortions in [Kosovo's economy, in this case] rather than genuine development in the sense of sustainable material advance and improvement of living conditions."[226] Bernauer and Ruloff pointed out waste and corruption as two negative consequences of such aid.[227] Corruption in particular was so rampant in Kosovo that the UN's Directorate of Organized Crime openly stated its assumption "that a corporate structure of organized crime and corruption is behind every political party."[228]

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[224] Serchuk, "The Future of Kosovo," 2–3.

[225] International Crisis Group, "Collapse in Kosovo," 38.

[226] Thomas Bernauer and Dieter Ruloff, *The Politics of Positive Incentives in Arms Control* (Columbia: University of South Carolina Press, 1999), 25.

[227] Bernauer and Ruloff, *The Politics of Positive Incentives in Arms Control*, 25.

[228] Walter Mayr, "Confusion and Corruption in Kosovo: The Slow Birth of a Nation," *Spiegel Online*, 24 April 2008, http://www.spiegel.de/international/world/0,1518,549441-2,00.html.

Another economic distortion associated with international aid stemmed from the apartheid-like system Milošević had engineered in Kosovo. Since virtually all professional administrators and technicians there were Serbian, the reversal of fortune that befell them after Allied Force and the subsequent anti-Serb reprisals inflicted a brain drain on the already tottering Kosovar economy.[229] Yannis noted the arrival of UNMIK, KFOR, and various other agencies had mixed economic results. The immediate spike in demand for labor provided unprecedented job opportunities for Albanians who had experienced unemployment rates as high as 70 percent,[230] thus providing an important "short-term psychological impact."[231] While many of these new openings were unskilled positions, however, the salaries paid by the international organizations exceeded not only those of comparable jobs in Kosovo's private sector, but also those of semi-skilled and skilled positions as well. "In consequence," wrote Yannis, "the much needed skilled workers with professional expertise ... ended up being underutilized as drivers and security jobs," resulting in a "serious distortion of the labor market, as it [was] not a sustainable response to the structural problems of the economy."[232] Although Kosovo's construction sector quickly expanded with the arrival of UNMIK and KFOR and foreign-funded infrastructure rebuilds, this uptick was confined to the "immediate post-war period."[233]

3. Mirror Images

Because the "Standards before Status" policy encouraged maximalist elements of both parties to the conflict, it served to ossify the parallel civic and economic structures that had emerged before Allied Force. Hardliner Serbs and Kosovar Albanians alike had their reasons for preserving these institutions, the former to undermine any conception of *de facto* independence for Kosovo, the latter because of the informal economic and service networks developed during the past decade of Belgrade's anti-Albanian policies.

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[229] Yannis, "The Political Economy of Conflict," 178.

[230] Yannis, "The Political Economy of Conflict," 173–4.

[231] Yannis, "The Political Economy of Conflict," 189.

[232] Yannis, "The Political Economy of Conflict," 189.

[233] International Commission on the Balkans, "The Balkans in Europe's Future," 20.

Nowhere was this phenomenon more evident than in the divided northern city of Mitrovica, where Serbs and Kosovar-Albanians operated parallel government structures on their respective sides of the Ibar River dividing the municipality. For example, Mitrovica Serbs conducted transactions in dinars instead of the euro used elsewhere in Kosovo and traveled to Belgrade without PISG-issued passports.[234]

One of the main consequences of these dual institutions was the rapid emergence of an informal economy in Kosovo that often helped finance criminal activity.[235] Yannis noted that "[t]his well-established informal—and often criminal—economy and its close ties with political extremism were exacerbated by the NATO intervention."[236] Because of the disconnects between UNMIK and CIVPOL—which will be discussed in greater detail shortly—and the initial lack of a functioning organic police force within Kosovo following Allied Force, criminal elements with connections to both organized crime and the KLA were able to make and consolidate gains.[237] According to Yannis, NATO's "zero casualties" philosophy greatly hobbled early efforts to combat both criminality and extremism.[238] As a result of parallel structures and the funding of hardliners through criminal activity, the social and civic intersections between ethnic Albanians and Serbs who had frequent contact with each other before Allied Force diminished precipitously.

4. "And Justice for None"

One of the international administration's most significant shortcomings was its failure to establish rule of law early on in its tenure. This was demonstrated at the outset when KFOR openly failed to stop ethnic Albanians from conducting reprisals against Serbs and other minorities—including fellow Albanians perceived as collaborators with the Serbian authorities.[239] "The orders are to let them pillage," replied a French KFOR

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[234] Serchuk, "The Future of Kosovo," 4.

[235] Yannis, "The Political Economy of Conflict," 181.

[236] Yannis, "The Political Economy of Conflict," 168.

[237] Yannis, "The Political Economy of Conflict," 182.

[238] Yannis, "The Political Economy of Conflict," 183.

[239] Human Rights Watch, "Under Orders: War Crimes in Kosovo," Human Rights Watch report, 2001, 463, http://www.hrw.org/sites/default/files/reports/Under_Orders_En_Combined.pdf.

soldier when asked why his squad did not intervene as Albanian villagers vandalized and looted a Serbian Orthodox church. "Of course it's mad, but those are our orders."[240] The reprisals had an effect similar to the atrocities that inspired them: a Human Rights Watch report estimated that 150,000 Serbs, Roma, and other members of Kosovo minority groups fled the province within the first six weeks after Allied Force.[241] "In mid-1999, there were no more than a handful of U.N. police, leaving NATO's KFOR troops to perform civilian policing functions for which they were ill-prepared," stated the report, noting that "NATO was largely preoccupied with protecting its own troops, rather than defending civilians."[242]

This failure to establish rule of law was not limited to the streets of Kosovo. It extended into the court room, where victims of crime anguished over the inability of a hopelessly inadequate system to dispense justice. "Establishing a functioning legal system should have been a top priority for UNMIK," wrote Yannis, "but it was not."[243] Serb leaders in Kosovo reported that 60 percent of attacks on Serbs and their property went unreported because of fears of reprisals and lack of faith in Kosovo's police force.[244] Serbs from rural areas, unable to tend or even visit their fields, were often too intimidated to pursue legal action against those who had dispossessed them of their land.[245] Kosovo's Albanians also suffered from this lack of judicial capacity, with a 2009 Amnesty International report finding that UNMIK, through its profound lack of progress in resolving cases of abductions and disappearances pre-dating Allied Force, had

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[240] Tim Judah, *Kosovo: War and Revenge*, (New Haven: Yale University Press, 2000), x, quoted in O'Neill, *An Unfinished Peace*, 45.

[241] *Under Orders*, 454.

[242] *Under Orders*, 15.

[243] Yannis, "The Political Economy of Conflict," 189.

[244] The Collaborative for Development Action (CDA) Collaborative Learning Projects and the Cooperative for Assistance and Relief Everywhere (CARE), "Has Peacebuilding Made a Difference in Kosovo? A Study of the Effectiveness of Peacebuilding in Preventing Violence: Lessons Learned from the March 2004 Riots in Kosovo," July 2006, http://www.cdainc.com/cdawww/pdf/book/cdapeacebuilding reportkosovo_Pdf4.pdf, 112.

[245] CDA/CARE, "Has Peacebuilding Made a Difference," 90.

failed to live up to its obligations under international law[246] and thus contributed to what Human Rights Watch termed "an atmosphere of impunity."[247] As another Amnesty International report noted:

> [T]he performance over more than seven years of the International Judges and Prosecutors Programme established by the UNMIK Department of Judicial Affairs ... has failed to meet up to expectations. Local prosecutors and judges are little better prepared to conduct proceedings in cases involving crimes under international law, and legal reforms essential for conducting such proceedings still have not been enacted into law.[248]

It is little wonder, then, that Serbs and Albanians alike felt deprived of justice under Kosovo's international administration.

5. Climbing the "Escalation Ladder"

To be sure, UNMIK and KFOR entered an already-poisoned environment within Kosovo. The Kosovar Albanians had endured the privations of Milošević's anti-Albanian policies during the decade preceding Allied Force and the subsequent horrors of ethnic cleansing that precipitated the NATO campaign, and as such had great reason to distrust the Serbs. Yet as shown in Chapter II, the two groups had still maintained at least some tentative social ties. After the establishment of UNMIK and the adoption of "Standards before Status," however, Kosovo became multi-ethnic in name only, with minorities either cloistering themselves within enclaves or fleeing Kosovo altogether in the face of reprisals by the ethnic Albanian majority.[249] "A multi-ethnic Kosovo," stated a 2006 report of the International Commission on the Balkans, "does not exist except in the bureaucratic assessments of the international community."[250] Although KFOR found

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[246] Amnesty International, "Burying the Past: 10 Years of Impunity for Enforced Disappearances and Abductions in Kosovo," Amnesty International Report, 2009, https://www.amnesty.org/en/library/asset/EUR70/007/2009/en/ccf25c64-d299-46ee-83d4-a8835f8bf970/eur700072009eng.pdf, 13–14.

[247] *Under Orders*, 15.

[248] Amnesty International, "Kosovo (Serbia): The Challenge to Fix a Failed UN Justice Mission," Amnesty International report, 2008, http://www.reliefweb.int/rw/RWFiles2008.nsf/FilesByRWDocUnidFilename/SODA-7BBALA-full_report.pdf/$File/full_report.pdf, 5.

[249] Yannis, "The Political Economy of Conflict," 180.

[250] International Commission on the Balkans, Centre for Liberal Strategies Secretariat, "The Balkans in Europe's Future," 2005.

this arrangement more conducive to providing security to Serbs and other minorities, it offered little in the way of engendering civic dialogue between the two groups. As Serchuck noted, "Most [minorities] live in an archipelago of impoverished, embittered enclaves, bounded by barbwire, burnt houses, and NATO peacekeepers."[251] Although written in 2005, this passage nonetheless held at least partial truth before the March 2004 riots.

This lack of social and civic interaction, while initiated by the Milošević regime, was unintentionally perpetuated by the international administrators and thus became yet another artifact of the UNMIK/KFOR legacy in applying the "Standards before Status" approach. To be sure, some progress was made within specific locales, of which the most notable is Štrpce in southern Kosovo near the Macedonian border, labeled by the International Crisis Group as a "model Serb enclave."[252] It is also undeniable that leaders on both sides of the equation greeted mediation attempts with maximalist demands. Still, the international administration's unwillingness and inability to address the parallel structures and the economic conditions which contributed to them reinforced the divisions between Kosovo's Albanians and Serbs. In this sense, the international administrators did not nurture reconciliation efforts to the fullest extent possible.

Oliver Ramsbotham, Tom Woodhouse, and Hugh Miall describe the need to achieve political closure between combatants as the first step in conflict de-escalation.[253] The "Standards before Status" approach, with its intentional ambiguity on Kosovo's final status, effectively prevented political closure from occurring. As a result, attempts to reconcile the Albanian and Serb populations occurred within the context of competing visions for the future. Unable to descend past the top rung of the "escalation ladder"[254]—the authors' logical construct for the resolution process—both sides were

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[251] Serchuk, "The Future of Kosovo," 4.

[252] International Crisis Group, "Kosovo: Štrpce, a Model Serb Enclave?," *ICG Europe Briefing*, no. 56 (15 October 2009): 1, http://www.crisisgroup.org/~/media/Files/europe/b56_kosovo___strpce__a_model_serb_enclave.ashx.

[253] Oliver Ramsbotham, Tom Woodhouse, and Hugh Miall, *Contemporary Conflict Resolution* (Malden, MA: Polity Press, 2005), 243.

[254] Ramsbotham, Woodhouse, and Miall, *Contemporary Conflict Resolution*, 242.

forced to explore alternate paths. The Serbs [living in Serbia], freed from the harsh economic sanctions levied against Yugoslavia for the latter half of the 1990s, seemed to choose what the three authors call "official amnesia."[255] Journalist Andrew Purvis, writing during Milošević's 2002 trial at the International Criminal Tribunal for the Former Yugoslavia, found that not only had Milošević's popularity rebounded alongside a resurgent nationalism among Serbs, but that his absurd denials concerning atrocities were shared by his former constituents:

> In cafes from Belgrade to Bujanovac, a kind of collective amnesia is setting in. 'Mass graves? People don't believe in mass graves anymore,' says Natasa Kandic, a human rights investigator who documented war crimes in Kosovo. 'We haven't touched on our own responsibility.'[256]

Similar accounts appeared in media reports worldwide during the time period between Allied Force and Purvis' dateline.[257]

Kosovo's ethnic Albanians, by contrast, have opted for "retaliation." The authoring trio's subtitle to this approach, "cleaning the slate by avenging the past," and their descriptions of "traditions of clan-based reprisal and vendetta,"[258] describe in a very literal sense what has happened to Serbs and other minorities in Kosovo since Allied Force and the advent of UNMIK and KFOR. Fittingly, the authors use the Balkans as their primary example of such traditions.

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[255] Ramsbotham, Woodhouse, and Miall, *Contemporary Conflict Resolution*, 237.

[256] Andrew Purvis, "Star Power in Serbia," *Time Magazine* online, 22 September 2002, http://www.time.com/time/magazine/article/0,9171,353524,00.html.

[257] See Janine di Giovanni, "NATO Bombings Have Left Serbia a Guilt-Free Zone," *The Times (London)*, 21 Jun 1999, Home News Section; Julius Strauss, "Most Serbs Don't Acknowledge Atrocities in Kosovo," *Chicago Sun-Times*, 1 July 2001, Sunday News Section, 3; Richard Boudreaux, "For Many Serbs, No Sense of Guilt over Atrocities," *Los Angeles Times* online, 2 July 1999, http://articles.latimes.com/1999/jul/02/news/mn-52304.

[258] Ramsbotham, Woodhouse, and Miall, *Contemporary Conflict Resolution*, 242.

D. SHOCKWAVES: THE RIOTS OF MARCH 2004

1. Ethnic Tectonic Plates

UNMIK's and KFOR's unintentional contributions to polarization in Kosovo through "Standards before Status" yielded a bitter harvest late in the winter of 2004. As with colliding tectonic plates, the tensions between Kosovo's ethnic Albanians and Serbs and the frustrations of each with the "Standards before Status" process could build for only so long before erupting in a paroxysm of violence. The first tremors rumbled through northern Kosovo over the course of the first two years after Allied Force when Mitrovica was racked by episodes of ethnic violence, some of which turned against KFOR and UNMIK forces.[259] As a 2002 report by the International Crisis Group noted, "the events in the North signal that the fight to determine the final status of Kosovo is underway."[260]

The eruption came on 17 March 2004, the day after three Albanian children had drowned in the Ibar River. Various ethnic Albanian media outlets reported that the children had drowned while fleeing Serb "bandits" from the Serb-dominated northern half of the city[261]—claims an official UNMIK inquiry later found unsubstantiated.[262] The reports drove Kosovo's Albanian population to the streets. Riots soon broke out across the province and raged for two days. UNMIK CIVPOL, KFOR, and KPS forces, outnumbered by rioters by almost a two-to-one ratio, were overwhelmed. Although the number of deaths and injuries were relatively low compared to the scale of the violence, thousands of Serbs were left homeless. Many Bosnian Serbs who had resettled in

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[259] International Crisis Group, "UNMIK's Kosovo Albatross: Tackling Division in Mitrovica," *ICG Balkans Report*, no. 131 (3 June 2002): 4, http://www.crisisgroup.org/~/media/Files/europe/Kosovo%2031.ashx.

[260] "UNMIK's Kosovo Albatross," 1.

[261] International Crisis Group, "Collapse in Kosovo," 14; Human Rights Watch, "Failure to Protect," 19.

[262] UNMIK press briefing, 28 April 2004, http://www.unmikonline.org/press/2004/trans/tr280404.pdf.

Kosovo after being driven from their homes earlier in the decade were again displaced, as were Kosovar Serbs who fled the province during Allied Force and upon returning found their homes had been destroyed.[263]

2. "Failure to Protect": An Indictment of UNMIK and KFOR

In some ways, the March 2004 riots served as a metaphor for the numerous shortcomings UNMIK and KFOR exhibited from the outset. As UNMIK built up its CIVPOL force and disarmament of the KLA progressed, NATO steadily decreased its troop strength in Kosovo. KFOR, citing an "improved security environment" in 2002, cut its forces to 39,000 from an initial post-Allied Force strength of 50,000.[264] That number had fallen to 26,000 by June of 2003, and by the end of that same year—just three months before the riots—it reached less than 18,000.[265] As KFOR downsized its presence, its security functions were ceded to UNMIK and, increasingly so, to KPS, a process referred to as "normalization."[266] As previously mentioned, NATO reduced its troop strength faster than CIVPOL and KPS could build theirs up, and as a result the combined strength of these three security organizations at the time of the riots stood at less than 27,000—or just over half the estimated number of rioters.[267]

Numerical inferiority was probably the least of the problems security forces encountered during the riots. Lacking the training and equipment to engage in effective crowd control and dispersal, outnumbered KFOR soldiers were "caught between ineffectively attempting to stop mobs with their bare hands and firing live rounds at them"—the latter of which was fortunately rare.[268] Writing in the months following Allied Force, William O'Neill observed that some KFOR soldiers failed to realize that

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[263] Human Rights Watch, "Failure to Protect," 22, 31.

[264] North Atlantic Treaty Organization, "NATO's Role in Kosovo: The Evolution of NATO's Role in Kosovo," http://www.nato.int/cps/en/natolive/topics_48818.htm , last updated 10 November 2010.

[265] NATO, "NATO's Role in Kosovo.

[266] International Crisis Group, "Collapse in Kosovo," 12.

[267] "The Future Roles for Stability Police Units," Center of Excellence for Stability Police Units workshop report, 5 April 2005, http://www.usip.org/files/resources/april_coespu.pdf, 7.

[268] International Crisis Group, "Collapse in Kosovo," 19.

their original mission—protecting ethnic Albanians from Serb atrocities—had been obviated by the withdrawal of Serb forces from the province.[269] O'Neill's sentiment was reflected years later by an exasperated UNMIK official's derision of NATO's performance during the riots:

> We always knew that Kosovo would not be invaded. KFOR is in Kosovo to protect against civil violence, disturbances, and ethnic violence. They don't need tanks but riot gear and shields, and soldiers trained in dealing with public disorder. If KFOR was not prepared for such civil disorder, then why the heck not? What did they think they were in Kosovo for?[270]

KFOR had not learned its lesson from its earliest experiences in Kosovo. Five years after Allied Force, it still thought the Serbs were the "bad guys."

Another shortcoming evident in the responses—or lack thereof—to the riots was the lack of coordination, both within each security organization in the form of command and control and among the three in the form of collaboration. At the time of the riots, KFOR was divided into four geographic regions—north, east, center, and southwest—with one NATO Multinational Brigade (MNB) assigned to each.[271] Cooperation between MNBs was characterized as "the exception rather than the rule," often relying on the initiative of those at the lower unit level using personal cellular phones.[272] In addition to the insular nature of these geographic zones, there was no single command structure for making and disseminating decisions. NATO deployed a KFOR commander (COM-KFOR) and command staff to Kosovo, but the designation has been described as "ceremonial."[273] Speaking one month after the riots, a KFOR spokesman stated, "COM-KFOR cannot give brigade commanders *orders*, but the brigade commanders receive *guidance* from COM-KFOR."[274] Additionally, many NATO countries placed specific

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[269] O'Neill, *An Unfinished Peace*, 44.

[270] Human Rights Watch interview with senior UNMIK official, 16 June 2004, quoted in Human Rights Watch, "Failure to Protect," 25.

[271] Human Rights Watch, "Failure to Protect," 12.

[272] Honzak, "A New KFOR," 16.

[273] Human Rights Watch, "Failure to Protect," 25.

[274] Human Rights Watch interview with KFOR spokesperson Lt-Col. James Moran, Priština, 19 April 2004, quoted in Human Rights Watch, "Failure to Protect," 25. (italics mine)

restrictions, or "caveats," on their own forces in Kosovo and required them to consult their home governments before executing NATO orders.[275]

As a result of these internal inconsistencies, KFOR's performance during the riots was mixed, and its forces often worked at cross-purposes with CIVPOL and KPS. Many of these shortcomings were documented in a Human Rights Watch report aptly titled, "Failure to Protect." For example, French KFOR forces did not intervene when rioters burned the Serb village of Svinjare—137 homes—within sight of the French logistics base.[276] A French KFOR spokesman later claimed the French had insufficient troops to challenge the arsonists.[277] Similarly, German troops confronted by rioters near Prizren evacuated the remaining monks from the fourteenth-century Monastery of the Archangels, which the crowd subsequently burned down.[278] According to Human Rights Watch, "The monastery's only access point was a narrow road through [a] gorge; as such, it should have been easily defensible.... 'The Germans didn't use their truncheons or tear gas, and didn't even fire in the air,' one of the monks recalled."[279] Italian troops "rescuing" Serbs seeking refuge in an Orthodox church surrounded by a mob did not force a cordon through the crowd, "but instead obliged the Serbs to run to them through a gauntlet of young Albanians who attacked them with bricks and knives."[280] Only the presence of an American-led UNMIK police unit—one of whose female officers shot and killed a knife-wielding Kosovar Albanian who had already murdered an elderly Serb and was threatening a Serb youth—prevented a large-scale tragedy.[281]

UNMIK also gave an overall poor accounting of itself during the riots. The CIVPOL command structure, like that of KFOR's, "virtually collapsed during the onset of the crisis" at "both the political and security level."[282] As a result CIVPOL "was

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[275] Human Rights Watch, "Failure to Protect," 13.

[276] Human Rights Watch, "Failure to Protect," 21.

[277] International Crisis Group, "Collapse in Kosovo," 20.

[278] Human Rights Watch, "Failure to Protect," 21–2.

[279] Human Rights Watch, "Failure to Protect," 55–6.

[280] International Crisis Group, "Collapse in Kosovo," 20.

[281] Human Rights Watch, "Failure to Protect," 51.

[282] Human Rights Watch, "Failure to Protect," 61.

reduced to creating a crisis management system ad hoc as the crisis unfolded."[283] One report noted that CIVPOL's multi-national composition hindered the development of *esprit de corps*.[284] As with KFOR, the cumulative result of these factors was a wide variance in CIVPOL's performance during the riots. On one end of the spectrum, a group of ethnic Albanian teenagers was able to torch a Priština church because "nobody with rank mobilized [the 120 UN and KPS officers at the nearby UNMIK police headquarters] to take on the crowd," while at the other end a CIVPOL commander "[faced] a stone-throwing mob without body armor."[285]

Perhaps the most alarming example of inefficacy demonstrated during the violence was the abject failure of KFOR and CIVPOL to work with each other and with KPS toward a common goal. In Mitrovica, "French KFOR treated CIVPOL and KPS at best as impediments"[286] before the riots broke out. French troops reacted to the outbreak of the violence by forcibly ejecting both KPS and their CIVPOL liaisons from the southern half of the city, instructing KPS officers via telephone not to report to work, and taking over KPS and CIVPOL facilities.[287] In the American-led eastern sector, U.S. forces had previously marginalized KPS authority by aligning with KPC elements there.[288] Although KFOR mounted some joint patrols with KPS officers in the aftermath of the violence,[289] by any account the KFOR-CIVPOL-KPS relationship was at best counter-productive when it mattered most—during the riots. As a result, the "failure to protect" was made complete.

3. Aftershocks: The Impact of the Riots on Kosovo's Status

Numerous post-riot analyses singled out the "Standards before Status" approach and the resulting discontent as primary underlying causes for the riots. "Deep

[283] International Crisis Group, "Collapse in Kosovo," 19.

[284] International Crisis Group, "Collapse in Kosovo," 20.

[285] International Crisis Group, "Collapse in Kosovo," 20.

[286] International Crisis Group, "Collapse in Kosovo," 21.

[287] International Crisis Group, "Collapse in Kosovo," 21.

[288] Human Rights Watch, "Failure to Protect," 10–1.

[289] International Crisis Group, "Collapse in Kosovo," 23.

dissatisfaction within Kosovo society about the lack of progress in resolving the final status," observed Human Rights Watch, "left the province ripe for unrest."[290] The International Crisis Group stated, "The lack of progress over final status and the absence of any indication how much longer UNMIK's mandate would last were sources of frustration."[291] A post-riot analysis appearing in *International Peacekeeping* cited "the indecision on a final status" as "a key problem."[292] In testimony before the House Committee on International Relations, Balkan Affairs Advisor to the Albanian-American Civic League Shirley Cloyes DioGuardi asserted, "The world should be surprised not that violence erupted in [Kosovo], but that it has happened so rarely in a society whose political and economic future has been held hostage to lack of final status for the past six years."[293] Finally, UNMIK's own internal postmortem on the riots acknowledged:

> The dominant factor that produced the upheaval of violence on 17–18 March was mounting frustration and apprehension caused by Kosovo's uncertain future status. This existential issue had remained stalemated for nearly five years, since the beginning of the mission.[294]

Although the preceding passage demonstrates that frustrations with the social, civic, and economic stagnation resulting from the "Standards before Status" policy created a volatile atmosphere in Kosovo, it should be noted that these conditions alone do not wholly explain the violence of March 2004. For example, a study conducted jointly by the Collaborative for Development Action (CDA) and the Cooperative for Assistance and Relief Everywhere (CARE) determined that while lack of economic opportunity "increased frustration and anger," it was not a direct cause of ethnic violence.[295] Evidence exists that at least some of the violence was premeditated and orchestrated.

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[290] Human Rights Watch, "Failure to Protect," 15.

[291] International Crisis Group, "Collapse in Kosovo," 2.

[292] Kristine Höglund, "Swedish Peacekeeping and the 2004 violence in Kosovo," *International Peacekeeping* 14, vol. 3: 406.

[293] *Kosovo: Current and Future Status: Hearings Before the House Comm. on Foreign Affairs,* 109th Cong., 50 (18 May 2005) (prepared statement of Ms. Shirley Cloyes DioGuardi, Balkans Affairs Adviser, the Albanian American Civic League).

[294] UN Mission in Kosovo, "Report of the Crisis Management Review Body," 1 June 2004, 7, cited in Serchuk, "The Future of Kosovo," 3.

[295] CDA/CARE, "Has Peacebuilding Made a Difference," 52.

The two main indicators here are the presence of non-local rioters at various locations within Kosovo and the uncanny precision with which minority houses and cultural sites were attacked. Human Rights Watch reported that "[o]nce the violence began, it swept throughout Kosovo with almost clinical precision," leaving Albanian homes in the affected regions unscathed but sparing none belonging to minorities.[296] The International Crisis Group found "reports of hardcore groups travelling long distances to join, some in buses."[297] In the words of EU High Representative for Foreign Policy and Security Javier Solana, "It may have been a moment of spontaneity, but ... a lot of people (were) organized to take advantage of that moment of spontaneity."[298]

Regardless of the extent to which they were planned, the riots undoubtedly represented a watershed moment for Kosovo because they openly called into question the wisdom of the "Standards before Status" policy.[299] Because the roots of the violence were inextricably linked to the policy, UNMIK came under intense internal and external pressure to change its approach. Some reports asserted the calamity brought about a change in the UN Secretary-General's Special Representative in Kosovo.[300] The new SRSG, Søren Jessen-Petersen, sought to fast-track the now-renamed "Standards for Kosovo," simultaneously engaging with local authorities and directing renewed emphasis on Kosovo's stagnant economy.[301] When UNMIK hurriedly introduced the Kosovo Standards Implementation Plan on 31 March 2004, it added "Cultural Heritage" as an "extra" standard in direct response to the devastation the riots wreaked upon Serbian

[296] Human Rights Watch, "Failure to Protect," 28.

[297] International Crisis Group, "Collapse in Kosovo," 15.

[298] Paul Ames, "EU's Solana says violence could delay decision on Kosovo's future," Associated Press, 25 March 2004, cited in Human Rights Watch, "Failure to Protect," 27.

[299] Daniela Manca, "From Global to Local: Ethnic Violence in Kosovo Reminds NATO about Security in its Backyard," International Security Information Service Europe, *NATO Notes* 6, no. 2 (April 2004): 6.

[300] Natsis, "UN in Kosovo," 9.

[301] Natsis, "UN in Kosovo," 9.

Orthodox churches, monasteries, and graves.[302] Although laudable, such efforts were considered too little, too late, as evidenced by the marked shift in perceptions and attitudes that soon became apparent. Just as the specter of Bosnia had dominated Western thinking on Kosovo prior to March 2004, so too did the specter of the riots haunt the West's every subsequent action and utterance regarding Kosovo as UNMIK attempted to regroup and forge ahead.

The urgency to kick-start the "Standards" process was accompanied by expressions of willingness to entertain the "Status" issue. This development was no doubt meant to encourage conciliation and compromise between Kosovo's Albanian and Serb populations, but the riots had noticeably changed the calculus in Kosovo. Understandably, Kosovo's Serbs felt acutely betrayed by UNMIK and KFOR. Most either retreated to the relative safety of Serb enclaves north of the Ibar River or fled Kosovo completely. This sense of betrayal was poignantly captured in an interview with one of the Serb victims of the riots:

> For the last five years, so many internationals have come to study our problems that I can't even count them anymore, and they have produced tons of reports and recommendations. In the end, the result was that I lost everything I have built for forty years, while the international community watched from a few hundred meters away. I don't even have a single photograph left from my life. And now they tell me to go back and rebuild my life—how can I trust them?[303]

Although Kosovo's Albanian leaders belatedly realized what their woefully inadequate reaction to the riots had cost them in terms of international sympathy and support,[304] they were quick to recognize the potential leverage the violence had provided

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[302] UNMIK, "The Kosovo Standards Process 2003-2007," UNMIK Strategic Communication 070420, 2007, para. B.(ii.), http://www.unmikonline.org/standards/docs/KSP2003-2007.pdf; Human Rights Watch, "Failure to Protect," and International Crisis Group, "Collapse in Kosovo," detail the destruction of churches and monasteries, while Mayr, "Confusion and Corruption in Kosovo describes the desecration of a Serb graveyard and its chapel.

[303] Human Rights Watch interview with Milos Antic, Mitrovica, 8 April 2004, quoted in Human Rights Watch, "Failure to Protect," 36–7.

[304] UN SC, "Letter Dated 17 November 2004 from the Secretary-General Addressed to the President of the Security Council," Enclosure, "Report on the situation in Kosovo," 30 November 2004, http://documents-dds-ny.un.org/doc/UNDOC/GEN/N04/632/22/pdf/N0463222.pdf, 3.

them. They had reminded their Serb neighbors in both Kosovo and Belgrade that they—not the Serbs—held the decisive demographic advantage in Kosovo.[305] "The riots," wrote one analyst, "were clearly intended to demonstrate who controlled the streets, and that there were limits to what the 'people' would tolerate."[306] These leaders, who had initially refused to condemn the violence,[307] suddenly saw themselves as being in a position of strength, and many local ethnic Albanian politicians abandoned their platform of "patient compromise" in favor of a "bargaining" posture virtually overnight.[308] There was a sense that Kosovo's Albanian population had collectively sent an unmistakable message to the larger world that they were much more than idle spectators in the ongoing definition of Kosovo's future. According to one report:

> [T]here was a discernible sense of hopeful expectation ... about the possibilities the violence might have opened up for breaking the Kosovo status logjam. The new LDK-affiliated newspaper *Pavarësia* let this into full view ..., publishing an interview with Arian Starova, former foreign minister and now a member of Albania's parliament, entitled: "[The latest events] shortened Kosovo's road to independence."[309]

The Rubicon had been crossed. Although the UN continued to push for improvements in Standards, its ensuing efforts were henceforth increasingly focused on addressing the Status issue.

In the aftermath of the death, destruction, displacement, and injury wrought by the violence, an additional tragedy went unrecognized initially: despite the tense situation, the riots could have been defused had Kosovo's international administrators recognized and addressed the warning signs and set better precedents earlier in their tenure. O'Neill provided an especially salient anecdote soon after the establishment of UNMIK and KFOR:

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[305] International Crisis Group, "Collapse in Kosovo," 22.

[306] Ben Lombardi, "Balkan Intrigue: German Intelligence and Kosovo," *International Journal of Intelligence and CounterIntelligence* 22, no. 3 (2009): 478.

[307] Human Rights Watch, "Failure to Protect," 58.

[308] International Crisis Group, "Collapse in Kosovo," 25.

[309] International Crisis Group, "Collapse in Kosovo," 27.

> Many Albanians I interviewed shared the view that if KFOR and UNMIK had acted with greater toughness, rigor, and clarity in the early days, violence would have diminished and many problems relating to security, economic development, and the relations between ethnic communities would also have been less grave. One insisted that the international community should have stated on June 12, 2000, that ... "we won't let you exploit ethnic grievances or divisions.... This is hypocrisy."[310]

Having set this precedent from the outset, UNMIK and particularly KFOR chose to live with it instead of working to correct it. The International Crisis Group's report on the riots bears a disconcerting congruity to O'Neill's account: "Each of the two ignition points [of the riots] could have been suppressed if KFOR and the police had been more alert.... With proactive responses, much of the conflagration of 17-18 March [2004] could have been prevented."[311] Indeed, the isolated successes of specialized British and Polish units during the riots proved that a small, well-disciplined, properly-trained force could effectively contain a much larger crowd of rioters;[312] yet such incidents were the exception rather than the rule. As a result, multiple opportunities to defuse the charged atmosphere of post-war Kosovo were lost.

4. End Game: Fool's Gambit?

Following the riots, Kosovo's independence unfolded in an atmosphere of nigh-inevitability via a sequence of studies and reports. Soon after the violence ended, UN Secretary-General Kofi Annan tasked Norwegian diplomat Kai Eide with generating options for Kosovo's future.[313] Eide's report, delivered to the UN Security Council in August 2004, confirmed fears that the window of opportunity for a managed Status solution was quickly sliding shut. Stating that "future status discussions ... cannot be postponed much longer,"[314] Eide called for such talks to begin in autumn 2004.[315]

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310 O'Neill, *An Unfinished Peace*, 48. Text in quotations is attributed to an interview O'Neill conducted with an unnamed interviewee, Priština, September 2000.

311 International Crisis Group, "Collapse in Kosovo," 19.

312 Human Rights Watch, "Failure to Protect," 25, 35–6.

313 Steven Woehrel, *Kosovo's Future Status and U.S. Policy*, Congressional Research Service Report, 27 January 2005, 3.

314 UN SC, "Letter Dated 17 November 2004," 4.

315 Author's note: the report was not delivered to the Security Council until November 2004.

Noting that the KISP, while useful, was too ambitious to be credible, Eide advocated replacing the hard, fixed coupling between Standards and Status with a more incremental, flexible approach.[316]

One year after delivering Kai's report to the Security Council—and seven months after the International Commission on the Balkans issued its own report calling for a four-phased approach to Kosovo's independence[317]—Secretary-General Annan appointed Finnish diplomat Martti Ahtisaari as a Special Envoy and charged him with building a framework for determining Kosovo' final status.[318] After more than a year of intense negotiations with Kosovo's ethnic Albanian leadership, their Serb counterparts both within the province and in Belgrade, and other interested third parties, Ahtisaari issued a report proclaiming talks on Kosovo's status a stalemate; recognizing that neither reintegration into Serbia nor indefinite international administration were feasible options, Ahtisaari recommended the province begin a phased transition to independence.[319] The European Council added its voice to the independence chorus, echoing the UN's concerns for regional stability in the Balkans.[320] Although Ahtisaari was careful to portray the Kosovo case as *sui generis*, his conclusion acknowledged the role of Resolution 1244 in creating the very narrow circumstances which now necessitated Kosovo's independence.[321] In February 2008, less than a year after Ahtisaari's report was released, Kosovo declared its independence. Although Serbia vehemently protested the declaration as "flagrant violation of the Serbian Constitution, Resolution 1244, the Helsinki Final Act and the UN Charter,"[322] many Western nations (including the United States) formally recognized Kosovo's independence.

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316 UN SC, "Letter Dated 17 November 2004," 15.

317 International Commission on the Balkans, "The Balkans in Europe's Future," 20.

318 UN SC, "Letter Dated 26 March 2007," 2.

319 UN SC, "Letter Dated 26 March 2007," 3–4.

320 Council of the European Union, "Presidency Conclusions - Brussels," 14 December 2007, 20, http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/ec/97669.pdf.

321 UN SC, "Letter Dated 26 March 2007," 4.

322 Republic of Serbia, "Declaration of Kosovo Independence."

The term "fool's gambit" refers to a chess opening that dooms the player making the first move to lose. While a chess player arguably has a far greater number of opening moves available to him or her than did the international community in addressing post-Allied Force Kosovo, the metaphor is logically appropriate for the systemic explanation for Kosovo's independence. The UN and NATO made early missteps that ultimately decreased their collective ability to maintain balance between goals that admittedly were nearly mutually exclusive. Having set out with the expressed intent of pursuing these competing goals, the UN ultimately realized it could not achieve in Kosovo what historian Timothy Garton Ash referred to as "virginity and motherhood"[323]—respect for Yugoslavia's sovereignty simultaneous with autonomy for Kosovo—and that its own actions, along with those of KFOR, helped precipitate what it had sought to avoid.

E. PAINTED INTO A CORNER: EVALUATING THE SYSTEMIC EXPLANATION

Of the three explanations this study examines, the systemic explanation contains the most explanatory power regarding the origins of Kosovo's independence. Whereas the historical explanation establishes motive and the institutional explanation describes means, the systemic explanation accounts for opportunity: the international community, under the aegis of UNMIK, created conditions which ultimately made Kosovo's independence inevitable. Evidence of this potentiality was available early on, as indicated by an independent analysis of the Ahtisaari report: "Resolution 1244 can realistically be read in only one way. The Council implicitly recognised that Kosovo remaining as part of Serbia—even as a highly autonomous entity—would not be sufficient to promote long-term peace and stability."[324]

Kosovo's international administrators failed to establish rule of law, to provide equal protection to all regardless of ethnicity, and to address sufficiently the province's faltering economy. These failures directly contributed to increased polarization. By actively—if unintentionally—participating in "a policy of reverse discrimination in

[323] Ash, "Winning the Balkans to Lose Them."

[324] International Crisis Group, "Kosovo: No Good Alternatives to the Ahtisaari Plan," *ICG Europe Report*, no 182 (14 May 2007): 7.

Kosovo,"[325] UNMIK and KFOR unwittingly empowered Kosovar Albanian extremists and Belgrade hardliners alike. Thus, selective and inconsistent implementation of Resolution 1244, together with the "Standards before Status" policy, created the conditions for the March 2004 riots, which in hindsight could have been prevented, or at least mitigated.

The riots became the catalyst for addressing Kosovo's status. As Serchuk wrote in the fall of 2005, "It was out of the ashes of the March 2004 conflagration that the effort to settle Kosovo's fate emerged."[326] But the situation had already reached its tipping point. With Kosovo's minorities cowering in their enclaves or fleeing the province altogether, UNMIK's vision of a multi-ethnic Kosovo was relegated to the realm of dreams. The Kosovar Albanian leadership traded international goodwill for bargaining power in the form of implicit threats of mob violence, while the Serbs, nursing their sense of betrayal, stonewalled all avenues of negotiation. Both sides dug in, removing the possibility of further compromise. UNMIK had painted itself into a corner; as scholar Juan Pekmez presciently wrote six months into UNMIK's existence, "Having shown itself to be incapable of reversing this trend, the Kosovo peace mission has settled into a policy of *fait accompli*."[327] Intentions to the contrary aside, the international administration in Kosovo created a situation with only one possible outcome, and in doing so provided Priština its long-sought opportunity to declare independence.

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[325] International Commission on the Balkans, "The Balkans in Europe's Future," 19.

[326] Serchuk, "The Future of Kosovo," 3.

[327] Pekmez, "The Intervention by the International Community," 10.

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V. CONCLUSION

This study has approached Kosovo's independence as a mystery to be solved through establishment of motive, means, and opportunity. The preceding chapters have examined three explanations for Kosovo's independence—one historical, one institutional, and one systemic—to determine the degree to which international intervention and administration in Kosovo might have contributed to each element of this mystery. Those chapters have demonstrated that the international community, under the aegis of UNMIK and NATO, made material contributions to both the means by which Kosovo declared its independence and the opportunity under which it was able to so do.

Kosovo's motive for declaring independence was, unsurprisingly, the inverse of Belgrade's argument that Kosovo must remain part of Serbia. Both nations claimed Kosovo as an ancestral homeland, yet an untenable imbalance emerged between the Serbs' near-monopoly on political power and the Kosovar Albanians' demographic dominance. While ethnic, religious, and linguistic differences undeniably exist, the most rigorous research demonstrates that the very real animosity between the two groups is less a function of "ancient" ethnic hatreds than of recurring nationalism since the nineteenth century and—even more so—of the anti-Albanian polemics and policies of the Milošević era. In consequence, the historical explanation lacks the explanatory power necessary to buttress the null hypothesis, which states that Kosovo's independence was inevitable due to the historical inability of Kosovar Albanians and Serbs to coexist in a state dominated by the latter. While the historical explanation serves to establish motive, it does not account for means or opportunity and thus provides insufficient basis for asserting that Kosovo's independence would have occurred absent the international community's intervention.

If the historical explanation is most closely associated with Kosovo's motives for seeking independence, the institutional explanation describes the means by which it sought to demonstrate its capacity to govern. This study has shown sovereignty to be an essentially contested concept: its shared meaning can be challenged and changed over

time. In the case of Kosovo, the Western world affirmed the legitimacy of *divisible* sovereignty and *relational* sovereignty by rewarding Priština's increased capacity for governance with greater autonomy. As a result, Yugoslavia no longer had a monopoly on the legitimate use of force within Kosovo; its sovereignty there was curtailed. The international community, however, was unable to resolve the dilemma of parallel structures, and Kosovo's institutions were insufficiently mature to warrant international recognition of Kosovo's sovereignty. Like the historical explanation, therefore, the institutional explanation lacks sufficiency.

The systemic explanation holds the most explanatory power of the three explored because it most convincingly establishes causality between the international administration of Kosovo and Kosovo's declaration of independence. It indicates correlation between Western anti-Serb biases and the inefficacy of UNMIK and KFOR policies in meeting the established objectives of Resolution 1244. Particularly salient is the correlation between these preconceptions and the inability of international security forces to prevent anti-minority violence during the riots of March 2004. The riots can be attributed at least in part to widespread discontent with the Standards before Status policy, and they represented a discernable turning point in Kosovo. Although UNMIK changed its approach in the wake of the riots, building a multi-ethnic society in Kosovo was no longer an achievable goal; the international administration had unintentionally created conditions under which independence was the only realistic option.

The fact that only a minority of the world's nations has recognized Kosovo's independence speaks to the relevance of investigating how and why that independence was achieved. Numbering among those nations which have not recognized Kosovo are several members of NATO and the EU, most of whom supported the NATO military campaign which precipitated adoption of Resolution 1244 and the creation of UNMIK and KFOR. Spain and Greece, for example, are both home to separatists factions for whom the Kosovo case could set an either promising or problematic precedent, depending on one's viewpoint.[328]

[328] British Broadcasting Corporation News, "Kosovo Independence Move Not Illegal, Says UN Court," 22 July 2010, http://www.bbc.co.uk/news/world-europe-10730573.

Despite the ICJ's ruling that Kosovo's declaration was permissible under international law, Kosovo's status continues to serve as an irritant between the Western states who favored the international intervention on the one hand and those who opposed it on the other. Russia and China, which face separatist movements in Chechnya and Xinxiang, respectively,[329] have been particularly vocal in their opposition to the intervention in Kosovo and have refused to recognize its independence. The increasingly prominent role these two non-Western powers will likely play in the twenty-first century increases the importance of understanding sources of disagreement stemming from the previous century.

Finally, both the UN and the ICJ were careful to describe the Kosovo case as *sui generis*. In truth, every case of potential international intervention possesses its own distinct aspects and circumstances and is therefore unique. The existing inclination within the Western portion of the international community to intervene on behalf of those deprived of governance is unlikely to dissipate in the near future. It is the present author's hope that this study will contribute to an increased appreciation for those features unique to every such crisis and encourage increased scrutiny of the manner in which those unique characteristics may cause international agencies responding to the crisis to work at cross purposes.

[329] Thomas G. Weiss, *Humanitarian Intervention* (Malden, MA: Polity Press, 2008), 109.

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